

## **CHAPTER 14**

### **PARKS AND LAND USE**

#### **ARTICLE I. PARK AND PLANNING COMMISSION**

Division 1. In General

##### **Sec. 14-1. Southeastern Wisconsin Regional Planning Commission.**

(a) One (1) member of the Southeastern Wisconsin Regional Planning Commission is appointed by the governor.

(b) One (1) member is appointed by the county board executive and shall be a member of the county board.

(c) The third member is appointed by the governor from a list submitted by the county board executive.

(d) The provisions of section 7-94 shall apply to members of the commission.  
(Mo. of 4-17-84, as amended, Rule 24)

**Cross reference** - Boards and commissions generally, § 4-95.

**State law reference** - Regional planning commissions, Wis. Stat. § 66.0309.

##### **Sec. 14-2. Zoning agency and planning designated; hearing etc., on county or town zoning ordinances.**

(a) The county park and planning commission is designated as the agent of the county board in all matters pertaining to zoning, and shall carry out all functions given to it under the Wisconsin Statutes.

**State law reference** - Authority to so provide, Wis. Stat. §59.69(2).

(b) The county shall refer to the park and planning commission for advice and recommendation on all matters pertaining to the physical improvement or development of the county.  
(Res. No. 7, 4-27-54)

(c) All petitions for amendment of the county zoning ordinance shall be referred to the county park and planning commission for its consideration, holding public hearing thereon, report and recommendations according to law.

(d) Before the county board acts to approve or disapprove any town zoning ordinance or

amendment thereof according to the provisions of law, such town ordinance or amendment thereof shall first be referred to the county park and planning commission for its report and recommendation thereon.

(Res. No. 9, 4-27-54)

**State law reference** - Approval of town zoning ordinance by county board, Wis. Stat. § 59.69(5).

### **Sec. 14-3. Participation in flood insurance program.**

(a) The county board assures the Federal Insurance Administration that it takes the following legislative action:

1. It appoints the park and planning commission with the responsibility for review and recommendation on zoning and other land use matters.
2. The zoning administrator shall have the following duties:
  - A. Delineate or assist the administrator, at his request, in delineating the limits of the areas having special flood and/or mudslide hazards on available local maps of sufficient scale to identify the location of building sites;
  - B. Provide such information as the administrator may request concerning present uses and occupancy of the flood plain and/or mudslide area;
  - C. Maintain for public inspection and furnishing upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures;
  - D. Cooperate with federal, state, and local agencies and private firms which undertake to study, survey, map, and identify flood plain or mudslide areas, and cooperate with neighboring communities with respect to management of adjoining flood plain and/or mudslide areas in order to prevent aggravation of existing hazards;
  - E. Submit on the anniversary date of the community's initial eligibility, an annual report to the county executive and park and planning commission on the progress made during the past year within the community in the development and implementation of flood plain and/or mudslide area management measures;
  - F. Take such other official action as may be reasonably necessary to carry out the objectives of the national flood insurance program;
  - G. The park and planning commission shall have the overall responsibility, authority and means to implement all commitments made by this section.

(Res. No. 24, 5-22-73)

### **Sec. 14-4. Clean water fees.**

(a) The county board authorizes the county park and land use department to provide a clean water program as authorized by law.

(b) A clean water fund is established as a segregated escrow account for the clean water fees collected by the county park and land use department. The county park and land use department is authorized to disburse the funds to qualified municipalities.

(Res. No. 23, 7-13-72)

**Cross references** - Parks and recreation, Art. III; water and water quality, Division 3 of this Article.

#### **Sec. 14-5. Agricultural land preservation program.**

The county board designates the county park and land use department and the county soil and water conservation district board with the responsibility of reviewing farm preservation agreements and transmitting same with recommendations to the county board. The county board designates the county park and land use department with the responsibility of preparing an agricultural land preservation plan and ordinance for the county.

(Res. No. 197-3/78, 3-21-78)

**Cross references** - Agricultural preservation plan, § 14-30.

**State law references** - Farmland preservation, Wis. Stat. § 91.01 et seq.; agricultural preservation planning, Wis. Stat. §91.51 et seq.

#### **Secs. 14-6 - 14-25. Reserved.**

#### **Division 2. Adoption of Plans**

#### **Sec. 14-26. Regional plans - Development.**

(a) The following are adopted as a guide for regional and community development:

1. The regional land use and transportation plans previously adopted by the Southeastern Wisconsin Regional Planning Commission as set forth in Southeastern Wisconsin Regional Planning Commission Planning Report No. 7;
2. The transportation plan element recommended in the Regional Land Use and Transportation Plan for Southeastern Wisconsin for the year 2000 previously adopted by the regional planning commission as set forth in Southeastern Wisconsin Regional Planning Commission Planning Report No. 25 as an amendment and extension of the 1990 Regional Land Use and Transportation Plan;
3. The Southeastern Wisconsin Regional Planning Commission Planning Report No. 18, entitled A Jurisdictional Highway System Plan for Waukesha County, as previously adopted.

(b) The following highway segments identified in Southeastern Wisconsin Regional Planning

Commission Report No. 18, entitled A Jurisdiction Highway System Plan for Waukesha County, as prospective arterials are included as prospective arterials in the year 2000 Regional Land Use and Transportation Plan:

1. C.T.H. "J" from its intersection with S.T.H. "74" in the east one half of section 13, township 8 north, range 18 east, east and north to Plain View Road then easterly over Plain View Road to Town Line Road also known as C.T.H. "V," thence northeasterly over new alignment approximately one half mile to intersect with Menomonee Avenue in the West one half of section 7, township 8 north, range 20 east;
2. C.T.H. "SS" from its intersection with I-94 northward and east to its intersection with C.T.H. "G;"
3. C.T.H. "TJ" also known as Silvernail Road, from its intersection with C.T.H. "JJ" westerly to its intersection with C.T.H. "T;"
4. C.T.H. "D" from its intersection with C.T.H. "DE" southerly and westerly to its intersection with C.T.H. "E;"
5. C.T.H. "U" from its intersection with Sunset Drive southerly to its intersection with C.T.H. 164;
6. C.T.H. "I" from its intersection with S.T.H. "83" south to the county line;
7. C.T.H. "EE" from its intersection with C.T.H. "E" south and easterly to its intersection with C.T.H. "I;"
8. C.T.H. "NN" from its present intersection with existing S.T.H. "83" westerly to its intersection with S.T.H. "67;"
9. A new county trunk highway segment to be placed on the map from the intersection of C.T.H. "SS" and C.T.H. "G" easterly to its intersection with S.T.H. "16" south of the W.C.T.C. Campus.

(c) This section does not modify the established street and highway width map for the county.  
(Res. No. 13, 5-16-67; Res. No. 71-7/78, 7-18-78)

**State law reference** - Local adoption of regional plans, Wis. Stat. § 66.945(12).

#### **Sec. 14-27. Same - Parks.**

The regional park and open space plan previously adopted by the Southeastern Wisconsin Regional Planning Commission in its report entitled SEWRPC Report No. 27, A Regional Park and Open Space Plan for Southeastern Wisconsin-2000, is adopted as the county park and open space plan.

(Res. No. 27-5/78, 6-6-78)

**Cross reference** - Parks, Art. III, Ch. 14.

**Sec. 14-28. Fox River watershed plan.**

The comprehensive plan for the Fox River Watershed previously adopted by the Southeast Wisconsin Regional Planning Commission as set forth in Southeast Wisconsin Regional Planning Commission Planning Report No. 12 is adopted as a guide for watershed and community development. (Res. No. 111, 12-29-70)

**Cross reference** - Water and water quality, Division 3, Art. I.

**State law reference** - Local adoption of regional plans, Wis. Stat. § 66.945(12).

**Sec. 14-29. Pewaukee land use plan.**

The Community Assistance Planning Assistant Report No. 76 entitled A Land Use Plan for the Town and the Village of Pewaukee, Year 2000, Waukesha County, Wisconsin is recognized and adopted as an amendment to the previously adopted Regional Water Quality management Plan and the Regional Land Use Plan. This section shall serve as a guide to decision makers in consideration of development proposals within the Town and Village of Pewaukee. (Res. No. 9-4/84, 4-17-84)

**State law reference**- Local adoption of regional plans, Wis. Stat. §66.945(12).

**Sec. 14-30. Agricultural land preservation plan.**

(a) The Waukesha County Agricultural Land Preservation Plan is adopted.

(b) There is adopted and incorporated by reference the previously adopted Towns of Mukwonago and Eagle and the City of Muskego and the City/Town of Pewaukee Agricultural Preservation Plans as integral parts of the Waukesha County Agricultural Land Preservation Plan.

(c) The plan shall serve as a guide to local units of government in choosing courses of action relative to decisions regarding the preservation of agricultural lands appropriate to their situations and free of any mandates from the county, but the plan does not have the force and effect of law.

(d) When any other community hereinafter adopts an agricultural land preservation plan which is in compliance with sections 91.55 and 91.57 of the Wisconsin Statutes, the plan shall be made an integral part of the Waukesha County Agricultural Land Preservation Plan as an amendment thereto. (Res. No. 190-11/84, 11-8-84)

**Cross references** - Agricultural land preservation program, § 14-5.

**Secs. 14-31 - 14-45. Reserved.**

Division 3.            Water Quality Management Plans

**Sec. 14-46.    Regional plan.**

The Regional Water Quality Management Plan for Southeastern Wisconsin-Year 2000, previously adopted by the Southeastern Wisconsin Regional Planning Commission as set forth in SEWRPC Planning Report No. 30, is adopted as a guide for water quality management.  
(Res. No. 140-10/79, 10-23-79)

**State law reference** - Local adoption of regional plans, Wis. Stat. §66.945(12).

**Sec. 14-47.    Lac La Belle and Okauchee Lake.**

The Southeastern Wisconsin Regional Planning Commission Community Planning Report No. 53, A Water Quality Management for Okauchee Lake, and Southeastern Wisconsin Regional Planning Community Assistance Planning Report No. 47, A Water Quality Management for Lac La Belle, are adopted as guides for the improvement of water quality and land use management in the drainage area directly tributary to Okauchee Lake and Lac La Belle.  
(Res. No. 179-2182, 2-16-82)

**State law reference** - Local adoption of regional plans, Wis. Stat. §66.945(12).

**Sec. 14-48.    Ashippun Lake.**

The Southeastern Wisconsin Regional Planning Commission Planning Report No. 48, entitled A Water Quality Management Plan for Ashippun Lake, is adopted as a guide for the improvement of water quality and land use management in the drainage area directly tributary to Ashippun Lake.  
(Res. No. 51-7/82, 7-22-82)

**State law reference** - Local adoption of regional plans, Wis. Stat. §66.945(12).

**Sec. 14-49.    North Lake.**

The Southeastern Wisconsin Regional Planning Commission Community Planning Report No. 54, entitled A Water Quality Management Plan for North Lake, is adopted as a guide for the improvement of water quality and land use management in the drainage area directly tributary to North Lake.  
(Res. No. 142-11/82, 11-16-84)

**State law reference** - Local adoption of regional plans, Wis. Stat. §66.945(12).

**Sec. 14-50.    Pewaukee Lake.**

The Southeastern Wisconsin Planning Commission Community Planning Report No. 58, entitled A Water Quality Management Plan for Pewaukee Lake, is adopted as a guide for the improvement of water quality and land use management in the drainage area directly tributary to Pewaukee. (Res. No. 159-9/84, 10/16/84)

**State law reference** - Local adoption of regional plans, Wis. Stat. §66.945(12).

**Secs. 14-51 - 14-60. Reserved.**

## **ARTICLE II. SOLID WASTE MANAGEMENT BOARD**

Division 1. In General

### **Sec. 14-61. Solid waste management board.**

(a) There is established a solid waste management board.

(b) The solid waste management board shall be composed of not less than nine (9) persons nor more than fifteen (15) persons of recognized ability and demonstrated interest in the problems of solid waste management. No less than three nor more than five of the board members shall be appointed from the County board. All members shall be appointed for three-year terms by the county executive. Members who are not members of the county board must have demonstrated interest, knowledge and expertise in matters of solid waste management. The provisions of section 7-94 shall apply to members of the board.

(c) This board shall have the authority provided for in section 59.51 of the Wisconsin Statutes with the following exceptions:

1. The board shall not have the authority to acquire lands by obtaining the fee through purchase, lease, donation, or eminent domain, without the express approval of the county board;
2. The board shall not have the power of taxation. In addition, the appropriation of funds and acquisition of monies to build and manage the system shall be performed through the normal procedures used by other committees and commissions of the county board;
3. The board shall not have the authority to adopt ordinances necessary for the conduct of the solid waste management system, nor provide forfeitures for violations without the express approval of the county board;
4. The board may hire its own staff if deemed necessary and subject to this Code. Any staff obtained shall function in accordance with this Code as they apply to other departments of the county board in matters of remuneration, fringe benefits, etc.;
5. Regarding the acquisition of equipment and other facilities and capital expenditures by the

board, such expenditures shall be appropriated by the county board and approved under normal procedures of the county board.  
(Res. No. 202, 3-30-82; Mo. of 4-17-84, as amended, Rule 32; Ord. No. 146-77, 11-19-91; Ord. 153-31, 06/12/98)

**Sec. 14-62. Reserved.**

**Editor's note** - Ordinance No. 146-77, adopted Nov. 19, 1991, repealed former § 26-2, which pertained to the recycling advisory committee and derived from a motion of April 17, 1984, rule 32; Res. No. 26-5/84, adopted May 15, 1984; Ord. No. 14143, adopted June 27, 1986.

**Sec. 14-63. Solid waste management plan.**

The report entitled Solid Waste Management Plan for Washington and Waukesha Counties is adopted. (Res. No. 104-Revised 8-80, 9-2-80)

**Secs. 14-64 - 14-130. Reserved.**

**ARTICLE II. PARKS AND RECREATION**

Division 1. In General

**Sec. 14-131. Sale of sodas at parks and golf courses.**

The county park and land use department shall sell soda water beverages at county parks and golf courses.  
(Res. No. 252, 3-31-81)

**Secs. 14-132 - 14-135. Reserved.**

Division 2. Park Rules

**Sec. 14-136. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commission* means the county park and planning commission.

*Department* means the county parks and land use department.



*Park or parkway* includes the grounds, buildings thereon, waters therein, and any other property which is now or may hereafter be under the control or jurisdiction of the department.  
(Ord. of 12-8-58, § 2)

**Sec. 14-137. Purpose.**

The purpose of this article is:

1. To protect the county's parks and parkways and appurtenances thereto from fire, abuse and desecration;
2. To provide for the recreational use of these areas;
3. To control and regulate traffic and maintain general order therein; and,
4. To further the safety, health, comfort, morals and welfare of all persons while within the limits of the parks and parkways.

(Ord. of 12-8-58, § 1)

**Sec. 14-138. Scope.**

This article applies only to parks and parkways.

**Sec. 14-139. Rules and regulations.**

Until otherwise directed by the county board, the department may adopt additional or revised rules and regulations for the proper conduct and administration of the parks and parkways in the county that are not inconsistent with ordinance, and may perform such other acts with reference to the management of the parks and parkways as are lawful and as it may deem expedient to promote the beauty and usefulness of said parks and parkways and to increase the comfort, safety, convenience and public welfare of the citizens of the county and of visitors to the parks and parkways in their use of same.  
(Ord. of 12-8-58, § 14(C))

**Sec. 14-140. Penalties.**

Any person violating any of the provisions of this article shall, for each offense, forfeit a penalty of not less than two dollars (\$2.00) or more than one hundred dollars (\$100.00) together with the taxable costs in the action in the discretion of the court, and in default of payment thereof shall be imprisoned in the county jail for a period not to exceed ninety (90) days, in the discretion of the court.  
(Ord. of 12-8-58, § 15(B))

**Sec. 14-141. Permits generally.**

All permits required by this article shall be issued by the director of parks and land use or by the

director's designee, shall be in writing, and shall be subject to park rules and regulations. The persons to whom such permits have been granted shall be fully bound by the rules and regulations as though the same were inserted in the permits, and any person to whom a permit has been issued shall be liable for any loss, damage, or injury sustained by the commission or by any person by reason of the negligence of the person to whom the permit has been issued, their servants or agents.  
(Ord. of 12-8-58, § 14(A); Ord. 154-03, §1, 4/27/99)

**Sec. 14-142. Leasing of equipment.**

The department is authorized to lease equipment suitable for recreational purposes to private organizations upon such terms as it may determine provided that any such lease shall contain the provision binding the lessee to save and keep the county harmless from any and all liability whatsoever arising out of the leasing and use of such equipment, and provided further that the department may, in its discretion, in each case require lessee to provide public liability insurance covering the use of such equipment.  
(Ord. of 12-8-58, § 14(B))

**Sec. 14-143. Reserved.**

**Editor's note** - Ordinance No 147-151, § 4, adopted March 23, 1993, repealed § 20-33, which pertained to powers of peace officer and derived from an ordinance of December 8, 1958, § 15(A).

**Sec. 14-144. Operating hours.**

(a) Except for vehicular traffic moving through streets or roadways, and except when the department publishes general permission to use all or certain parks or parkways upon summer nights, the parks and parkways shall be closed at 10:00 p.m. each night until sunrise the following morning, and no person shall remain therein during those hours, provided that, the department may from time to time, in all or any of the parks or parkways, publish or post closing hours different from the above, or discontinue closing hours, as in the exercise of the judgment of the department director may appear reasonable and necessary.

(b) In case of an emergency, or when in the judgment of the department the public interest demands it, any portion of the parks or parkways or buildings therein may be closed to the public or to designated persons until permission is given to return.  
(Ord. of 12-8-58, § 3(A), (B))

**Sec. 14-145. Interference with park employees.**

No person shall interfere with or in any manner hinder any county employee, nor any employee of a contractor while engaged in constructing, repairing, or caring for any portion of the parks or parkways,

or while in the discharge of the duties conferred by this article.  
(Ord. of 12-8-58, § 3(C))

**Sec. 14-146. Use of liquor in parks.**

No person shall bring into or drink any spirituous, vinous, malt or mixed liquors in any park or parkway, except in such areas as designated by the department and then only by written permission of the department, and except at such places as beverages are sold by licensees of the department.  
(Ord. of 12-8-58, § 3(D))

**Sec. 14-147. Disorderly conduct.**

(a) No person shall use threatening, abusive, insulting, profane or indecent language, nor be guilty of conduct that is abusive, insulting, obscene, indecent, or constitutes a breach of the peace.

(b) No person violating any of the prohibitions enumerated in subsection (a) shall be allowed to remain in any park or parkway.  
(Ord. of 12-8-58, § 3(E))

**Sec. 14-148. Smoking; throwing lighted cigarette or cigar out of motor vehicle.**

(a) No person shall be permitted to smoke, or to hold a lighted cigarette, cigar, or pipe in any building, or section of a building, or in any park or parkway area where officially posted notices so prohibit.

(b) No person shall throw or drop a lighted cigar or cigarette stub or empty a lighted pipe from a motor vehicle moving along a parkway drive.  
(Ord. of 12-8-58, § 3(F))

**Sec. 14-149. Littering.**

(a) No person shall scatter, drop or leave any piece of paper, rag, tin can, bottle, glass, peanut shells, melon rinds, banana peels or other garbage, dead flowers, or other rubbish in any portion of the parks or parkways, except in the receptacles provided for that purpose.

(b) Any person who breaks a bottle or other glassware in any park or parkway shall immediately pick up the broken pieces and remove same to a park waste container.

(c) No person shall deposit, dump, throw, or place any earth, rubbish, dust, manure, paper, garbage, or any other refuse matter or any sand, stone, lumber, or building material, or any substance of any kind, in or upon any part of the waters, grounds, or roadways of any park or parkway without

written permission of the department.

(Ord. of 12-8-58, § 3(G))

**Sec. 14-150. Permit for public meetings and assemblies.**

(a) Planned or advertised public meetings and assemblies, or sporting and athletic events, are allowed in parks and parkways only by written permit issued by the director of parks and land use or by the director's designee.

1. Application for permits shall be made in writing and received by the director no less than 10 working days prior to the event and shall state:
  - A. The name, address and telephone number of the applicant.
  - B. The name and address of the person(s), corporation or association sponsoring the activity.
  - C. Description of the activity to be conducted.
  - D. The name of the park or parkway and the part thereof for which the permit is requested.
  - E. The date of the proposed activity, and the hour at which it will begin and end.
  - F. The estimated attendance.
  - G. Special needs, i.e., kitchen, utilities, parking, tent, sound, security and others.
2. A permit shall be issued to an applicant for the facility requested if:
  - A. Subsection 1 has been satisfied.
  - B. The place requested has not been reserved by other permits.
  - C. The site or facility requested will safely accommodate the anticipated attendance, the activity will not physically damage the site, and the activity is not proscribed by law; and for athletic or sporting events, the site will accommodate the activity to be conducted.
3. Any applicant for a permit under this section shall have the right to appeal the denial of a permit to the Executive Committee of the County Board. The appeal shall be made within 10 days of the denial of the permit, and shall be made by filing a written notice of the appeal in the Office of the Chairman of the Waukesha County Board. The Executive Committee shall act upon the appeal within 30 days of receipt of the notice of appeal by the Office of the County Board Chairman.

(Ord. 154-03, § 2, 4/27/99)

**Sec. 14-152. Noise.**

(a) No person shall use or operate any radio, tape or disc player, musical instrument or other mechanical or electrical sound making, reproducing or amplifying device in a park or parkway so as to be heard at a distance greater than (a) 15 feet from the instrument, device, radio or tape or disc player if used in a campsite area, or (b) 75 feet from the instrument, device, radio or phonograph if used in a non-campsite area.

(b) No such radio, tape or disc player, musical instrument or above-described device may be used or operated within a park within 75 feet of the legal boundaries of the park or parkway such that the device can be heard outside the park or parkway.

(c) The director of parks and land use or the director's designee may authorize or permit musical shows, cultural events, public gatherings, and exhibitions which are not limited by this section.  
(Ord. 154-03, § 4, 4/27/99)

**Sec. 14-153. Sales and Handouts.**

(a) No person shall sell, or offer for sale, any article, merchandise, or thing, nor promote any trade, occupation, business or profession, for commercial purposes in any park or parkway without a written permit from the director of parks and land use or the director's designee.

(b) No person shall deposit, place or scatter any material in any park or parkway. It shall not be unlawful, however, to hand out or distribute, without charge to the recipient, any printed or written material to any person willing to accept it.

(c) No person shall deposit or place any material in or upon any vehicle in any park or parkway unless the owner or occupant of the vehicle is willing to accept it.

(d) Any person who distributes any material shall keep the area of distribution free of any litter caused by or related to the distribution.

(e) No person shall post, stick or otherwise affix any item or material to or upon any tree, equipment or structure of any kind in any park or parkway.

(f) In this section, "material" means and includes any printed or written matter, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, paper, book, or other printed or otherwise reproduced original or copies of any matter or literature.  
(Ord. 154-03, § 5, 4/27/99)

**Sec. 14-154. Games and amusements; gambling prohibited.**

No person shall engage in any sport, game, race, or amusement in any park or parkway except upon such portion thereof as may be designated for that purpose, and then only under such rules and regulations as may be established by the commission.

(Ord. of 12-8-58, § 4(F); Ord. 154-03, § 6, 4/27/99)

**Sec. 14-155. Permits for picnic areas and interference with permittees prohibited.**

(a) No person shall in any manner disturb, harass or interfere with any person or party holding a written permit from the commission or with any such person's or party's equipment or property.

(b) Permits for the exclusive use of any picnic or play area for any specific date or time may be granted at the discretion of the commission, and no person shall in any manner disturb or interfere with any person or party occupying the ground under such a permit, or with any of such person's or party's equipment or property.

(Ord. of 12-8-58, § 4(G))

**Sec. 14-156. Weapons and fires.**

(a) No person shall carry, fire, or discharge any gun, pistol, or firearm, nor any rocket, torpedo or any other fireworks of any description, nor shall any person engage in trapping; nor shall any person hunt with bow and arrow within any park or parkway. The word "gun" includes air gun.

(b) No person shall throw stones or missiles in or into any park or parkway.

(c) No person shall make or kindle a fire for any purpose except in places provided therefor, and then subject to such regulations as may be prescribed. The use of charcoal burners in designated picnic areas shall be permitted provided lawns and other vegetation are not damaged and provided further that all unburned coals or ash are disposed of in such manner as to prevent fire or damage to any park property.

(Ord. of 12-8-58, § 5)

**Sec. 14-157. Animals.**

(a) No animal except those placed in the park or parkways by the authority of the department, and excepting horses when saddled or harnessed and in use for riding or pleasure, driving only on roadways or paths duly designated, and except dogs on leash as regulated by subsection (b) hereof, shall be conducted into or driven within the parks or parkways or be allowed to remain therein.

(b) No person having the control or care of a dog on a leash shall permit a dog to enter or remain in a public park or parkway unless it is led by a leash of suitable strength not more than six (6) feet in length and then only within such areas in parks as have been designed by order of the department. The department shall cause signs to be posted in areas wherein dogs are not permitted. (Ord. of 12-8-56, § 6)

**Sec. 14-158. Fish, waterfowl, game birds.**

(a) No person shall take or attempt to take any fish from, or send or throw any animal or thing into or upon, any of the waters of the parks or parkways; or kill, injure, or attempt to injure, or

unnecessarily disturb the fish in the waters, except with permission of the department.

(b) No person shall kill, injure, or attempt to injure, or unnecessarily disturb any waterfowl or other birds or animals, wild or domestic, within any of the parks or parkways. No person shall rob or disturb the nest or eggs of any bird or other animal therein.

(Ord. of 12-8-56 § 7(A))

**Sec. 14-159. Injury to vegetation, structures, and equipment.**

(a) No person shall climb any tree, or pluck any flowers or fruit, wild or cultivated, or break flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure, or other property within any park or parkway.

(b) No person in any park or parkway shall remove any device for the protection of trees or shrubs, nor shall any person fasten a horse or other animal next to any tree, shrub or grass plot which may become damaged by the action of the animal.

(Ord. of 12-8-56, § 7(B))

**Sec. 14-160. Removal of ice or sand prohibited.**

No person shall take ice from any stream or lake within any park or parkway, nor remove any sand therefrom or from the shores thereof without written permit from the department.

(Ord. of 12-8-56, § 7(C))

**Sec. 14-161. Aircraft landing prohibited.**

No person shall ascend or land with any aircraft, including gliders and parachutes, nor engage in stunt flying or parachute landing in any park or parkway without the written permit of the department.

(Ord. of 12-8-56, § 7(D))

**Sec. 14-162. Sleeping or camping.**

(a) No person shall lie down upon any bench or table in any park or parkway, nor shall hang, occupy, or use any hammock, excepting those used for placing infants therein.

(b) No person shall sleep, or camp, or lodge in any park or parkway except in such places as designated for such purpose, as overnight or tourist, or trailer camps, or camp sites, and then only subject to the rules and regulations of the department governing the use of such areas.

(Ord. of 12-8-56, § 7(E))

**Sec. 14-163. Public utilities and private construction.**

(a) The location of all sewers and receivers, gas pipes, water pipes, stopcock boxes, hydrants, lamp posts, telegraph, telephone, and electric power posts and lines, manholes, conduit and pumps within any park or parkway shall be subject to the jurisdiction and control of the department and their construction, erection, repair or relocation shall be undertaken only after written permission is received from the department.

(b) No curb, whether stone, concrete or grass, shall be cut for the purpose of constructing a private driveway across any parkway border nor for any other purpose, without written permission from the department. The location, width, grade, and construction of all paths, driveways and roadways across any sidewalk border along any parkway shall be subject to the approval of and constructed only after written permission thereof is obtained from the department. Every person who shall receive a permit to open a trench, to cut a curb, or to deposit materials in or upon any park or parkway shall at all times after such work has been commenced or materials deposited, and until the same has been completed, and until all accumulations of materials resulting from such work have been removed, so guard and protect the same that persons driving or passing along the roadway, sidewalk, or in the vicinity of the place where the work is being done, shall not be likely to meet with any accident therefrom. Such a person shall also during the time from sunset to sunrise, each night while said work is in progress, cause the same to be securely fenced and guarded by a red light or lights placed in a conspicuous position, and so secured that the same shall not be extinguished.

(Ord. of 12-8-58, § 8)

**Sec. 14-164. Traffic regulations.**

(a) No person shall drive any automobile, motorcycle, or other vehicle of traffic or burden upon any part of the parks or parkways except the proper drives and parking areas, or permit the same to stand upon the drives or any part thereof so as to congest traffic or obstruct the drive.

(b) No person shall cause any taxicab, bus, limousine or other vehicle for hire to stand upon any part of the parks or parkways for the purpose of soliciting or taking in passengers or persons other than those carried to the parks or parkways by the vehicle, unless licensed by the department.

(c) No person shall cause any bus, cart, dray, wagon, truck, trailer, or other vehicle carrying goods, merchandise, manure, soil, or any other articles, or solely in use for the carriage of goods, merchandise, manure, or other article, to enter or be driven in any part of the parks or parkways. This subsection shall not apply to vehicles engaged in the construction, maintenance, or operation of the parks or parkways, to vehicles making deliveries to the parks or parkways, or to busses under permit of the department.

(d) It shall be the duty of every person operating an automobile, motorcycle, or other vehicle of



traffic or burden within the parks or parkways to comply with the state, county and municipal traffic laws and with all orders, directions, and regulations of traffic officers, or officially displayed on any post, standard, sign, or device installed for the regulation of traffic.

(e) The department shall cause signs to be erected indicating speed limits on roads and drives. Where no such signs are posted the speed shall in no case be greater than twenty-five (25) miles per hour.

(f) The department shall cause to be erected such other traffic control signs as are necessary or which might become necessary for the proper regulations and safe movement of vehicles, pedestrians, and equestrians.

(g) Vehicles normally shall be parked in designated parking areas. Parking along roads and drives may be controlled by appropriate signs.  
(Ord. of 12-8-58, § 9)

#### **Sec. 14-165. Bicycles.**

(a) Riders of bicycles shall comply with Wisconsin Statutes, sections 346.77 through 346.82.

(b) No person shall ride a bicycle upon the lawns, walks, or foot trails in the parks or parkways.

(c) Bicycle riders shall proceed in the extreme right hand lane of the drives at all times, in a single file only.

(d) Riding bicycles crosswise and curving to and fro are strictly prohibited.

(e) No bicycle rider shall take both hands off the handlebars or ride recklessly in any other manner.

(f) A bicycle shall not be towed by a rope or otherwise, nor shall any rider hold on to any moving vehicle for purpose of being drawn along.

(g) No bicycle shall be pushed upon any park or parkway drive where an adjoining footwalk is available.

(h) Infants, children, or extra passengers shall not be carried on bicycles in any manner whatsoever.

(i) Children riding bicycles that have wheels less than twenty (20) inches in diameter may use the footwalks.

(j) Wherever possible, bicycles shall be parked in places provided for such purpose.  
(Ord. of 12-8-56, § 10)

**Sec. 14-166. Horseback riding.**

(a) No person shall ride horseback in any park or parkway except upon designated roadways and bridle paths.

(b) No person shall be permitted to ride horseback in any park or parkway after dark or before daybreak.

(c) No person shall be permitted to ride or drive a horse which cannot be held under such control that it may be easily turned or stopped.

(d) No person shall be permitted to ride or drive a horse in a reckless manner.

(e) Pedestrians shall have the right of way when crossing a bridle path, and whenever groups of people are visible within three hundred (300) feet, horse shall be ridden at a slow gate.

(f) Every rider shall comply with all department rules and signs along the bridle paths.  
(Ord. of 12-8-56, § 11)

**Sec. 14-167. Bathing and swimming regulations.**

(a) It shall be unlawful for any person to:

1. Wade, bathe, or swim within a park or parkway except at such pools or beaches as are or may be designated for that purpose by the department.
2. Take any food or beverage into the water of any area designated for wading, bathing or swimming under (a), above.
3. Take any glassware or bottles of any kind except eyeglasses on to any grass or sand area of a designated beach or pool for bathers.
4. Use water flotation devices, swim suits with flotation aids, face masks or diving equipment of any kind.
5. Bring in or consume any alcoholic beverages of any kind in designated beach areas.

(b) Non-swimmers are restricted to areas designated. Children 5 years of age or younger must be supervised by an adult. All persons, regardless of age, may be asked to demonstrate their swimming proficiency at the discretion of department employees.

(c) Patrons of any area designated for wading, bathing or swimming are to speak to lifeguards only

in the case of an emergency and are not permitted to interfere with the execution of a lifeguard's duties or responsibilities.

(d) Swimmers and bathers shall comply with all rules and regulations that are posted at beaches, pools or in bathhouses or other buildings.

(e) Failure to comply with any rules or regulations may result in the violator being required to leave the beach, pool, or bathhouse or other enforcement actions permitted by law.

(Ord. of 12-8-56, § 12)

**Sec. 14-168. Boat launching and docking regulations.**

(a) No person shall launch or dock any boat or other watercraft except at locations or facilities provided and designated for that purpose by the department.

(b) No person shall launch or dock any boat or other watercraft except at such times as are designated by the department.

(c) No person shall store or leave unattended overnight any boat or other watercraft without the written permission of the department.

(d) All persons using the boating facilities of the county park system shall comply with all posted regulations of the department.

(Ord. of 12-8-56, § 13)

**Secs. 14-169 - 14-180. Reserved.**

**ARTICLE III. EXPOSITION CENTER**

**Sec. 14-181. Management and maintenance.**

The responsibilities for the development and operation of all buildings and grounds of the Exposition Center is vested in the department with the county park and planning commission acting as the liaison committee to the department.

The department shall establish, adopt and administer all fees and policies to be used in the operation of the Exposition Center.

(Res. No. 25-5/82, 6-15-82; Mo. of 4-17-84, as amended, Rule 22; Res. No. 78-6/85, 8-18-85)

**Sec. 14-182. Fees and policies.**

All fees and policies for the administration of the Exposition Center adopted by the County parks and land use department and previously ratified by the county board are ratified and confirmed as on file in the office of the county clerk.

(Res. No. 192-12/82, 1-18-83)

**Secs. 14-183 - 14-250. Reserved.**

## **ARTICLE IV. RECYCLING AND SOLID WASTE**

Division 1. Recycling

### **Sec. 14-251. Purpose.**

The purpose of this article is to promote recycling, composting, and resource recovery through the administration of an effective recycling program for the Waukesha County responsible unit areas. The administration of an effective recycling program will extend the useful life of landfills, conserve natural resources, salvage materials for reprocessing, conserve energy, and improve the environment by lessening landfill deposits, as recognized in chapter 159 Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94)

### **Sec. 14-252. Statutory authority.**

This article is adopted as authorized and required by section 287.09 and section 287.11 Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94)

### **Sec. 14-253. Abrogation and greater restrictions.**

This article is not intended to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, articles or permits previously adopted or issued pursuant to law. However, whenever this article is more restrictive or imposes higher standards or requirements, this article shall govern.

(Ord. No. 149-91, § 1, 12-13-94)

### **Sec. 14-254. Interpretation.**

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this article may be inconsistent or may conflict with one another, the more restrictive terms or requirements shall apply. Where a provision of this article is required by state statute or by a state administrative regulation, and where the article provision is

unclear, the provision shall be interpreted in light of the state statute or state administrative regulation in effect on the date of the adoption of this article [Ord. No. 149-91, adopted December 13, 1994], or in effect on the date of the most recent text amendment to this article.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-256. Severability.**

Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-257. Applicability.**

(a) This article shall be in effect and enforced in those towns, villages and cities in Waukesha County for which Waukesha County is the responsible unit pursuant to section 287.09(1), Wisconsin Statutes.

(b) This article shall not apply to or be enforced in those towns, villages and cities in Waukesha County which retain their own responsible unit status pursuant to section 287.09(1), Wisconsin Statutes.

(c) Nothing in this article shall prohibit a member municipality from adopting this article as its own and enforcing that adopted article.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-258. Administration.**

This article shall be administered and enforced by Waukesha County.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-259. Definitions.**

For the purposes of this article, the following words, terms and phrases have the following meanings, except as otherwise specially provided elsewhere in this article:

1. *Bi-metal container* means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
2. *Container board* means corrugated paperboard used in the manufacture of shipping containers and related products.
3. *Foam polystyrene packaging* means packaging made primarily from foam polystyrene that satisfies one (1) of the following criteria:

- A. Is designed for serving food or beverages.
  - B. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
  - C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
4. *Hauler* means a person who is authorized to remove solid waste or recyclable materials from the generating source.
  5. *HDPE* means high density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #2, or as amended by future federal or state rules or regulations.
  6. *LDPE* means low density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #4, or as amended by future federal or state rules or regulations.
  7. *Magazine* means magazines and other materials printed on similar paper.
  8. *Major appliance* means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.
  9. *Member municipality* means any town, village or city for which Waukesha County is the "responsible unit" under section 287.09(1), Wisconsin Statutes.
  10. *Multiple-family dwelling* means a structure containing five (5) or more residential units, including those which are occupied seasonally.
  11. *Newspaper* means a newspaper and other materials printed on newsprint.
  12. *Non-residential facilities and properties* means commercial, retail, industrial, institutional and governmental facilities and properties which are not used for residential purposes. This term does not include multiple-family dwellings.
  13. *Office paper* means high grade printing and writing paper from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as highgrade. This term does not include industrial process waste.
  14. *Other resins or multiple resins* means plastic resins currently labeled by the Society of the Plastics industry, Inc. code as #7, or as amended by future federal or state rules or regulations.
  15. *Person* includes any individual, corporation, partnership, association, local governmental unit as defined in section 66.0131(1)(a), Wisconsin Statutes, state agency or authority, or federal agency.
  16. *PETE* means polyethylene terephthalate, currently labeled by the Society of the Plastics Industry, Inc. code as #1, or as amended by future federal or state rules or regulations.
  17. *Plastic container* means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
  18. *Postconsumer waste* means solid waste other than solid waste generated in the production of goods, hazardous waste as defined in section 291.01, Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial

waste.

19. *PP* means polypropylene, currently labeled by the Society of the Plastics Industry, Inc. code as #5, or as amended by future federal or state rules or regulations.
20. *PS* means polystyrene, currently labeled by the Society of the Plastics Industry, Inc. code as #6, or as amended by future federal or state rules or regulations.
21. *PVC* means polyvinyl chloride, currently labeled by the Society of the Plastics Industry, Inc. code as #3, or as amended by future federal or state rules or regulations.
22. *Recyclable material* includes lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins, steel containers, waste tires, and bimetal containers
23. *Responsible unit* has the meaning specified in section 287.09(1), Wisconsin Statutes
24. *Solid waste* has the meaning specified in section 289.01(33), Wisconsin Statutes.
25. *Solid waste facility* has the meaning specified in section 289.01(35), Wisconsin Statutes.
26. *Solid waste treatment* means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste, including incineration.
27. *Waste tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
28. *Yard waste* means leaves, grass clippings, yard and garden debris and brush, including clean, woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(Ord. No. 149-91, § 1, 12-13-94)

#### **Sec. 14-260. Separation of recyclable materials.**

*Separation requirements.* Occupants of single- family residences, two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste for recycling:

1. Lead acid batteries;
2. Major appliances;
3. Waste oil;
4. Yard waste;
5. Aluminum containers;
6. Bi-metal containers;
7. Corrugated paper or other container board;
8. Foam polystyrene packaging;
9. Glass containers;
10. Magazines;

11. Newspaper;
12. Office paper;
13. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins;
14. Steel containers;
15. Waste tires.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-261. Separation requirements exempted.**

The separation requirements of section 14-260 do not apply to the following:

1. Occupants of single-family residences, two to four-unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in section 14-260 from solid waste in as pure a form as is technically feasible.
2. Solid waste which is burned as a supplemental fuel at a facility if less than thirty (30) percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
3. A recyclable material specified in section 14-260(5) through (15) for which a variance has been granted by the Department of Natural Resources under section 287.11(2m), Wisconsin Statutes, or section NR 544.14, Wisconsin Administration Code.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-262. Care of separated recyclable materials.**

To the greatest extent practicable, the recyclable materials separated for collection in accordance with section 14-260 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions, except when materials are set out for collection. Separated recyclable materials shall be handled in accordance with section NR 544.05 [Wisconsin Administrative Code].

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-263. Management of lead acid batteries, major appliances, waste oil and yard waste.**

Occupants of single-family residences, two- to four-unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:



1. Lead acid batteries shall not be landfilled or incinerated, in accordance with section 287.07 Wisconsin Statutes. Lead acid batteries may be managed through battery retailers and may also be collected for recycling by local municipal drop-off sites, private haulers, scrap dealers or landfill operators.
2. Major appliances shall not be landfilled or incinerated, in accordance with section 287.07, Wisconsin Statutes. Major appliances may be delivered to a scrap dealer/recycler for proper processing.
3. Waste oil shall not be landfilled nor burned without energy recovery, in accordance with section 287.07, Wisconsin Statutes. Waste oil shall be delivered to a municipal or private waste oil collection site and shall be free of materials which would cause the waste oil to be nonrecyclable.
4. Yard waste shall not be landfilled or burned without energy recovery in a solid waste facility, in accordance with section 287.07, Wisconsin Statutes except as authorized by the Wisconsin Department of Natural Resources at a licensed wood-burning facility. Yard waste may be delivered to a compost facility, municipal collection site, or managed through home composting, or source reduction or other methods as permitted by state statutes or local ordinance.

(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-264. Collection and delivery of recyclable materials.**

(a) Except as provided in subsection (2), and unless otherwise directed in writing by Waukesha County or unless granted a variance by the Wisconsin Department of Natural Resources, a member municipality shall:

1. Collect materials listed in section 14-260(5) through (15) from single-family residences and two- to four-unit residences, and do so in a manner consistent with this article; or
2. Require haulers to collect materials listed in section 14-260(5) through (15) from single family residences and two- to four-unit residences, and to do so in a manner consistent with this article.

(b) Unless otherwise directed in writing by Waukesha County or unless granted a variance by the Wisconsin Department of Natural Resources, a member municipality with a population of five thousand (5,000) or greater which does not collect solid waste or contract for residential solid waste collection and disposal in that municipality shall provide collection service for materials listed under section 14-260(5) through (15) in a manner consistent with this article.

(c) Member municipalities shall require that haulers provide reports of solid waste and recyclables collected, at a minimum of two (2) times each year, to the member municipality and to Waukesha County.

(d) Haulers providing private solid waste collection service directly to residents, multiple- family dwellings and non-residential facilities and properties shall provide for the collection of materials listed under section 14-260(5) through (15), unless otherwise directed in writing by Waukesha County or granted a variance by the Wisconsin Department of Natural Resources.  
(Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-265. Responsibilities of owners of multiple-family dwellings.**

(a) Owners of multiple-family dwellings shall do all of the following to cause the materials specified in section 14-260(5) through (15) to be recycled:

1. Provide adequate, separate containers for the materials.
2. Provide for the collection of the separated materials and the delivery of the separated materials to a recycling facility.
3. At the time of renting or leasing the unit, and at least twice each year thereafter, notify tenants in writing about the established recycling program, reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) do not apply to the owners of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in section 14-260(5) through (15) from solid waste in as pure a form as is technically feasible. (Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-266. Responsibilities of owners of nonresidential facilities and properties.**

(a) Owners of non-residential facilities and properties shall do all of the following to recycle the materials specified in section 14-260(5) through (15):

1. Provide adequate, separate containers for the materials.
2. Provide for the collection of the separated materials and the delivery of the separated materials to a recycling facility.
3. At the time of renting or leasing the unit, and at least twice each year thereafter, notify in writing all users, tenants and occupants about the established recycling program, reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) do not apply to the owners or designated agents of nonresidential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in section 14-260(5) through (15) from solid waste in as pure a form as is technically feasible. (Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-267. Prohibitions on disposal of recyclable materials separated for recycling.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in section 14-260(5) through (15) which have been separated for recycling, except that waste tires may be burned with energy recovery in a solid waste treatment facility. (Ord. No. 149-91, § 1, 12-13-94)

**Sec. 14-268. Miscellaneous provisions.**

(a) *Waukesha County purchasing of recycled content, multiple-use, durable materials, equipment and supplies.* Waukesha County shall, to the extent financially practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials. Purchases shall include twenty-five (25) percent recycled content of all paper purchases in 1994 and forty (40) percent content of all paper purchases by 1995.

Waukesha County shall, to the extent financially practicable, consider recyclability and recycled content when awarding contracts for equipment, construction materials and supplies. The county wishes to discourage the purchase of single-use disposable products and to encourage the purchase of multiple-use, durable products which meet specifications.

(b) *Unlawful removal of recyclables.* Recyclable materials that have been deposited or placed at the curb or in a container adjacent to a home or multiple-family dwelling or nonresidential building for the purpose of collection for recycling shall not be collected or removed without permission.

(c) *Dumping provisions.* It shall be unlawful for any person to dispose of or dump solid waste in any street, alley or other place, or to place it in any receptacle, without the owner's consent.

(d) *Volume-based fees.* By January 1, 1997, the county shall require member municipalities to institute a system of volume-based solid waste fees to generate revenue equal to the municipalities' costs for solid waste collection and disposal other than those reimbursed by the State unless the member municipalities recycle at least twenty-five (25) percent of the solid waste collected by volume or by weight, in accordance with section 287.11(2)(dm), Wisconsin Statutes.  
(Ord. No. 149-91, § 1, 12-13-94)

#### **Sec. 14-269. Enforcement.**

(a) For the purpose of ascertaining and ensuring compliance with the provisions of this article but for no other purpose, any authorized office, employee or representative of Waukesha County may inspect materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to recycling activities, which shall be kept confidential to the extent permitted by law. No person may refuse access to any authorized officer, employee or authorized representative of Waukesha County who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(b) A citation may be issued for a violation of this article. It shall be the duty of the county to issue citations for violations of this article. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

(c) A citation which is issued for a violation of this article shall conform to the requirements of section 66.0113(1), Wisconsin Statutes, and shall contain all information required by that statute, as it is from time to time amended.

(d) Any person or entity who violates any provision of this article shall be required to pay a forfeiture of not less than fifty dollars (\$50.00) for the first violation, not less than one hundred dollars (\$100.00) for the second violation, and not more than five hundred dollars (\$500.00) for each subsequent violation. Each day that a violation of any provision of this article occurs or exists shall constitute a separate offense.

(e) The provisions of section 66.0113(3), Wisconsin Statutes, as it is from time to time amended, are adopted in their entirety and incorporated and made a part of this article.

(f) The cash deposit schedule for violations of this article shall be as follows:

1. Twenty-five dollars (\$25.00) for the violation;
2. The penalty assessment imposed by section 757.05, Wisconsin Statutes; and
3. The jail assessment imposed by section 302.46, Wisconsin Statutes. Cash deposits shall be made to the clerk of courts, and receipts shall be given for cash deposits. Funds shall be deposited in an appropriate account to be used for solid waste management purposes.

(g) The issuance of a citation shall not preclude Waukesha County from using any other enforcement method to enforce any provision of this article.

(h) Nothing in this article shall prohibit Waukesha County from applying to a court of competent jurisdiction for a temporary or permanent injunction, restraining any person from violating any term, condition or covenant of this article.

(i) No provision of this article shall be enforced by Waukesha County, whether by citation or by any other method, if an exemption or variance regarding the subject of the provision has been granted by state statute or by state administrative rule or regulation.  
(Ord. No. 149-91, § 1, 12-13-94)

**Secs. 14-270 - 14-280. Reserved.**

Division 2. Landfill Siting and Regulation

**Sec. 14-281. Intent.**

This article is intended to regulate the siting of landfills as that term is defined in section 289.01, Wisconsin Statutes. This article is also intended to comply with the directives of section 289.33, Wisconsin Statutes with respect to the negotiation and arbitration process, and to require that local concerns, as set forth in section 289.33, Wisconsin Statutes, be fully addressed. It is also the intent of this article to:

1. Establish procedures pertaining to the landfill siting process within the county.

2. Appropriate and levy sufficient fees to cover the county's involvement in the siting process.
3. Ensure that any sited landfill is considered in, and works as a supporting part of, the county solid waste management plan. This includes financial support for and/or physical accommodation of programs to reduce, reuse, recycle, screen or otherwise divert materials from landfill disposal.
4. Control the disposition of fees received under this article by the county.
5. Preserve landfill capacity of solid waste facilities in the county for future use and to ensure that county municipalities, residents and businesses shall have assurances as to the duration of landfill operations and the availability of disposal at landfills located within the county.
6. Require orderly land use development pertaining to the siting of landfills.
7. Ensure that final negotiated agreements under section 289.33(9), Wisconsin Statutes shall contain sufficient provisions to afford local residents protection against adverse impacts from the siting of landfills in the county.
8. Ensure that the costs of disposal are borne by the generators of solid waste to the greatest degree practical.

(Ord. No. 147-152, § 1, 3-23-93)

#### **Sec. 14-282. Local approval.**

This article shall constitute a local approval, as that term is defined under section 289.33, Wisconsin Statutes. Amendments of this article shall not affect the article's status as a local approval.

(Ord. No. 147-152, § 1, 3-23-93)

#### **Sec. 14-283. Definitions.**

In this article, terms shall have the following meanings:

*Applicant* means any person, corporation, or entity seeking to locate a landfill or an expansion thereof for which the county would be an affected municipality under section 289.01, Wisconsin Statutes.

*County* means Waukesha County.

*County representative* means the county's authorized boards, committees, subcommittees, elected officials, employees or other individuals who may be appointed to represent the county.

*Landfill* means a solid waste facility for solid waste disposal, as that term is defined in section 289.01, Wisconsin Statutes, and includes expansions of existing facilities which are currently licensed as of the effective date of Ordinance 147-152. A landfill does not include incinerators or transfer stations.

*Negotiating committee* means the local committee appointed pursuant to section 289.01,

Wisconsin Statutes.

(Ord. No. 147-152, § 1, 3-23-93)

**Note** - Definitions of sections 289.01 and 289.33, Wisconsin Statutes, as amended from time to time, are incorporated herein by reference.

**Secs. 14-284 - 14-289. Reserved.**

Division 3. Permits

**Sec. 14-290. Permit-Application, generally.**

An applicant shall comply with the provisions of this division and obtain a permit for the siting of any landfill for which the county is an affected municipality under section 289.01, Wisconsin Statutes. The application for a permit shall be submitted to the county clerk and the department. One (1) copy of the application shall be provided to the county clerk for public review purposes. The applicant shall provide as many copies to the department as are required at the time of application. At the option of the department director, or his designee, the application submitted to the department may be submitted in electronic format.

(Ord. No. 147-152, §1, 3-23-93)

**Sec. 14-291. Same-Application requirements.**

The application shall be signed by the applicant and shall be accompanied by information which shall include, but not be limited to, the following:

1. *Cover letter.* A signed cover letter from the applicant stating the project title, the name, address, and telephone number of the primary contacts for the project, including the facility owner and any consultants, present property owners and all others with a financial or proprietary interest in the property, the proposed facility owner and operator, and the name, address, and telephone number of the primary person responsible for ensuring the completeness and accuracy of the application.
2. *Initial site report.* The application shall include the initial site report submitted to the Department of Natural Resources under section 289.21, Wisconsin Statutes.
3. *Feasibility report.* The application shall include an outline of the feasibility report required by section 289.23, Wisconsin Statutes, intended to be submitted to the Department of Natural Resources.
4. *Table of contents.* The application shall have a table which specifically references, by page number or other identifier, the location of the following information within the initial site report or other sections of the application:
  - a. Geographical areas that may affect or be affected by the proposed facility.

- b. Zoning.
  - c. Other landfills owned or operated by applicant.
  - d. Boundaries of facility.
  - e. Topographic surveys.
  - f. Stream, road, railroad, utility line, and pipeline locations.
  - g. Previous excavations on site.
  - h. Governmental permits.
  - i. Applications for local approvals.
  - j. Surface water and hydrological features.
5. *Application specifications.* The application submitted under this division shall specify all information required by the solid waste manager, but at minimum shall include the following:
- a. All areas that may affect or be affected by the proposed facility. At a minimum, this will be the area within one-half ( $\frac{1}{2}$ ) mile of the limits of filling, for facilities with a design capacity of fifty thousand (50,000) cubic yards or less and areas within one (1) mile for facilities with a design capacity greater than fifty thousand (50,000) cubic yards. The information shall be supplemented with maps and with the names and addresses of all property owners within two thousand five hundred (2,500) feet of the property boundaries of the proposed site. Also included shall be a certified survey and the legal description of the proposed site.
  - b. A discussion of the land-use zoning of the site and all properties located within two thousand five hundred (2,500) feet of the site. This discussion will specifically include areas where zoning variances will be required, where agricultural impact statements may be required or where floodplain, shoreland, or wetland zoning is designated.
  - c. A statement of all other landfills which the applicant or its principal operates or in which the applicant or its principal has an interest located within one hundred fifty (150) miles of the proposed site.
  - d. The boundaries of the proposed facility, external boundaries of the property, and all properties lying within two thousand five hundred (2,500) feet of the external boundaries of the applicant's property. (If not owned, the foregoing shall apply to leased property or property which is the subject of the application.)
  - e. A detailed topographic survey of the proposed facility and all areas within one thousand five hundred (1,500) feet from the proposed limits of filling. The minimum scale shall be one (1) inch = two hundred (200) feet with a maximum two-foot contour interval.
  - f. Location and names of all streams, roads, railroads, utility lines, and pipelines on the site or within one thousand two hundred (1,200) feet thereof.
  - g. Boundaries and elevations of previous excavations on the site, if any.
  - h. A listing of all existing and required governmental permits affecting the site.
  - i. A list of all applications for local approvals submitted under section 289.22,



Wisconsin Statutes as well as the dates applications were served.

- j. A description of the surface water drainage patterns and significant hydrological features such as surface waters, springs, surface water drainage basins, divides and wetlands, and a proposed onsite water management plan and an erosion control plan.
  6. *Operation plan.* The applicant shall submit an outline for a plan of operation required under section 289.30, Wisconsin Statutes, including information pertaining to the type and estimated volume of materials to be disposed, municipalities and industries to be served, a timetable for the commencement of operations, proposed facility life, duration and cessation of disposal operations, anticipated cover frequency, primary travel routes to be used to transport construction materials and waste, and a general statement as to methods that the applicant will utilize pertaining to minimizing adverse impacts of neighboring residences and businesses. Also included with the operation plan should be a site plan drawn to a scale no less than one (1) inch = two hundred (200) feet.
  7. *Closure plan.* The applicant shall submit an outline describing the proposed type of final closure for the site, its proposed post closure uses of the site and a statement as to its ability to provide closure, long term care, and corrective actions, required under section 289.47, Wisconsin Statutes. Also included with the closure plan should be a site plan drawn to a scale no less than one (1) inch = two hundred (200) feet.
  8. *Other information.* The county may require such other information as may be necessary to determine the nature of the landfill, the impacts on the surrounding area, and other impacts to the county. The county may waive portions of the specified information if it is satisfied that the same is not relevant or necessary for a full and proper evaluation of the application.
- (Ord. No. 147-152, § 1, 3-23-93)

#### **Sec. 14-292. Same-Application fee.**

With the application, the applicant shall submit a one hundred thousand dollar (\$100,000.00) fee. This fee shall be used by the county to cover all costs and expenses incurred by the county associated with the siting process. Any portion of the fee not spent on costs and expenses associated with the siting process shall be reimbursed to the applicant. The costs and expenses shall include, but not be limited to, negotiating expenses and the county's review of the application. If the landfill intends to receive less than fifty (50) tons of waste per day, the applicant may petition for the payment of a filing fee in a lesser amount. A county representative shall review the petition and shall then conduct a review meeting with the applicant. In any event, the applicant for a permit shall pay, upon request by the county, any additional fees necessary to meet the county's actual expenses associated with the application.

(Ord. No. 147-152, § 1, 3-23-93)

#### **Sec. 14-293. Same-Requirements.**

A permit for the siting of a landfill in the county shall include the following minimum requirements,

which shall be adopted and incorporated into a final negotiated agreement, as that term is defined in section 289.33, Wisconsin Statutes, between the applicant and the county:

1. An annual permit fee of one hundred thousand dollars (\$100,000.00) or a sum equal to one dollar (\$1.00) for each ton of solid waste disposed at the landfill, whichever is greater. The sum of one hundred thousand dollars (\$100,000.00) shall be due on or before the first day that waste is received at the site and shall be paid each anniversary date thereafter until final closure. Within thirty (30) days after such anniversary date, the applicant shall supply the county with information setting forth the amount of waste disposed during the previous calendar year, and shall pay the county an additional sum, if appropriate, to meet the fee requirements set forth above.
2. An indemnification, hold harmless, and assumption of defense agreement to hold the county and the negotiating committee harmless from any liability pertaining to the issuance of a permit or in any way relating to the construction, operation, closure and post-closure activities of the land fill. Such agreement shall include an obligation to indemnify the county and negotiating committee from any loss or action or claim pertaining to the siting, operation, construction, closure or post-closure activities of the landfill.
3. A minimum guaranteed length of time during which county residents and businesses shall have access to the site.
4. Cooperation with any committee which may be appointed by the county executive to monitor the construction, operation, and closure, as well as post-closure activities, of the permittee.
5. The filing of a fifty thousand dollar (\$50,000.00) bond or irrevocable letter of credit with the county to protect against road damage during the construction, operation, or closure of the proposed facility.
6. The establishment of a property value protection plan to protect residents located within two thousand five hundred (2,500) feet of the site from property value loss occasioned by the siting of the solid waste facility.
7. Provisions for financial or physical support of, and interaction with, waste diversion and waste screening programs such as a "household hazardous" program under which hazardous household waste would be received at the site or disposed of by the applicant.
8. Provisions to protect local residents from excessive noise, road, insects, odors, dust, dirt, and debris, and such other protections for local residents as may be required by the department.
9. An amount of not less than three million dollars (\$3,000,000.00) in a form acceptable to the county sufficient to show the financial viability of the applicant to construct and operate the site, as well as undertake its responsibilities as set forth under section 289.41, Wisconsin Statutes.

(Ord. No. 147-152, § 1, 3-23-93)

**Sec. 14-294. Landfill fee reserve.**

All fees and compensation received under this article or under a negotiated landfill agreement shall be accounted for. All revenues shall be reserved and investment income on balances shall be similarly reserved. Use of these funds by county board appropriation shall be restricted to the following purposes:

1. Forty (40) percent of monies shall be used for the following purposes:
  - A. Participation in the negotiation and arbitration process.
  - B. Solid waste management board expenses and expenses of the standing committee or other county representatives monitoring solid waste facilities.
  - C. Resource recovery, recycling or composting programs.
  - D. Solid waste reduction and public education programs.
  - E. Waste screening or segregation programs such as the "household hazardous" programs which divert potentially hazardous or inappropriate materials from landfill disposal.
  - F. Legal fees associated with actions pertaining to closed, existing or future landfills.
  - G. Development and implementation of county solid waste management plans or a county integrated solid waste management system.
2. The balance of the monies shall be used for solid waste management purposes as the county board directs.

(Ord. No. 147-152, § 1, 3-23-93)

**Sec. 14-295. Approval and denial process.**

(a) *Review process.* Reviews of applications for completeness and requests for additional information shall be made by the department. The department shall provide written notice to the applicant as to whether the application is determined complete and if not complete, the area(s) needing completion.

(b) *Scheduling of public hearing.* After the determination that an application is complete, the department shall schedule a public hearing on the application. The hearing shall be scheduled within forty-five (45) days of the determination that the application is complete. Such hearing may coincide with hearings by the Wisconsin Department of Natural Resources or other agencies holding hearings on the same proposed landfill site.

(c) *Notice of hearing.* Notice of the public hearing shall be published as a Class 2 notice under Chapter 985, Wisconsin Statutes. In addition, notice of the public hearing shall be mailed to the last known address of all owners of property within two thousand five hundred (2,500) feet of the subject property. Failure to comply with this notice procedure shall not invalidate any action taken by the county.

(d) *Public hearing.* At the public hearing on the application, the county shall hear and receive any evidence or testimony presented by the applicant or their authorized agents. At the conclusion of the applicant's presentation, the county shall hear any public comments from those in support of and from those in opposition to the application. Such comments or testimony shall be considered in establishing conditions for the permit beyond the minimum required by this division. The applicant shall be given an opportunity to respond to any comments, evidence, or recommendations.

(e) *Standards for evaluation and approval.* The county shall review all aspects of the application as it relates to potential impacts on nearby residents, the local business community or the county, and to otherwise comply with the intent and purpose of this article.

(f) *Approval and denial.* Within one hundred twenty (120) days following the hearing, the county representatives reviewing the application shall make a recommendation to the county board whether to grant or deny the application based upon specific findings and conclusions. The county board shall act on such recommendations within thirty (30) days of the receipt of the recommendation.

(g) *Conditions for approval.* The approval of an application may be conditioned upon the applicant meeting certain operational, closure, and restoration provisions and standards. In addition, the approval shall be specifically conditioned upon the permit being incorporated into the final negotiated agreement as set forth under section 289.33, Wisconsin Statutes.

(h) *Permit numbers.* In the event that the applicant meets the requirements of this division and a permit is issued by the county, the county clerk shall assign a permit number to the landfill. The county clerk shall maintain copies of all permit applications and permits granted. The permit number shall be used on all future correspondence and documents pertaining to the permitted landfill site.

(i) *Non-compliance.* If, at any time, the permittee fails to meet the financial requirements or other conditions of the permit and negotiated agreement, a county representative shall notify the permittee that it has ninety (90) days in which to come into compliance. If after ninety (90) days the permittee remains in non-compliance, a meeting shall be held between the county and the permittee at which time the county may rescind the permit.

(Ord. No. 147-152, § 1, 3-23-93)

#### **Sec. 14-296. Transfer or sale of permit.**

A permit granted pursuant to this division shall not be transferred or sold by the permittee without prior written approval from the county board.

(Ord. No. 147-152, § 1, 3-23-93)

**Secs. 14-297 - 14-304. Reserved.**

**ARTICLES V AND VI. RESERVED.**

**ARTICLE VII. LAND AND WATER CONSERVATION**

**Secs. 14-305 - 14-325. Reserved.**

**ARTICLE VIII. STORM WATER MANAGEMENT AND EROSION CONTROL**

Division 1. Introduction

**Sec. 14-326. Authority for Ordinance.**

This ordinance applies to land disturbing and land development activities on lands within the unincorporated boundaries and jurisdiction of Waukesha County and annexed lands and is adopted under the authority granted by 92.07(15), 59.693 and 281.33 Wisconsin Statutes.

**Sec. 14-327. Findings of Fact.**

(a) The Waukesha County Board finds that uncontrolled stormwater runoff and construction site erosion from land development and land disturbing activity has a significant impact upon water resources and the health, safety, general welfare of the community and diminishes the public enjoyment and use of natural resources.

(b) Specifically, uncontrolled stormwater runoff can:

1. degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge and diminishing stream base flows;
2. diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing loadings of nutrients and other urban pollutants;
3. alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
4. reduce the quality of groundwater by increasing pollutant loading;
5. threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities;
6. threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes;
7. undermine floodplain management efforts by increasing the incidence and levels of floodings.

**Sec. 14-328. Definitions.**

(a) *Applicant* means any landowner, land user(s), their agent or contractor responsible for submitting and carrying out the requirements of this ordinance. Applicant shall also

mean any subsequent land owner to whom this ordinance applies.

(b) *Agricultural land use* means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.

(c) *Best management practice* means a practice, technique or measure that is an effective, practical means of preventing or reducing soil erosion and water pollution from runoff both during and after land development activities. These can include structural, vegetative or management practices.

(d) *Common plan of development or sale* means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where integrated multiple separate and distinct land developing activity may take place at different times and on different schedules.

(e) *County* means Waukesha County.

(f) *Department* means the staff of the Land Conservation Division of the Waukesha County Department of Parks and Land Use, organized under section 92.09 Wisconsin Statutes, or its designee.

(g) *Design storm* means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

(h) *Discharge Volume* means the quantity of runoff discharged from the land surface as the result of a rainfall event.

(i) *Erosion* means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

(j) *Erosion control plan* means a written description and detailed site plan of best management practices designed to meet the requirements of this ordinance submitted by the applicant for review and approval by the Department.

(k) *Groundwater enforcement standard* means a numerical value expressing the concentration of a substance in groundwater which is adopted under sec. 160.07 Wis. Stats. and NR 140.10, Wisconsin Administrative Code., or sec.160.09, Wis. Stats. and NR 140.12, Wisconsin Administrative Code.

(l) *Groundwater preventive action limit* means a numerical value expressing the concentration of

a substance in groundwater which is adopted under sec. 160.15, Wis. Stats. and s. NR 140.10, 140.12 or 140.20, Wisconsin Administrative Code..

(m) *Impervious surface* means a surface through which rainfall does not infiltrate Rooftops, sidewalks, parking lots and street surfaces are examples of impervious surfaces.

(n) *Infiltration* means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.

(o) *Land Conservation Committee* means the statutory committee of the Waukesha County Board created under authority of s. 92.06 Wis. Stats. Or its designee. In Waukesha County the Land Use, Parks and Environment Committee (LUPE) fulfills the statutory obligation.

(p) *Land development activity* means the construction of buildings, roads, parking lots, paved and unpaved storage areas, patios, seawalls and similar facilities, but not including general maintenance of parking lots and drives.

(q) *Land disturbing activity* means any man-made change of the land surface, including removing vegetative cover, cutting of trees, demolition, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens and harvesting of trees, and tree nurseries.

(r) *Landowner* means any person holding title to or having an interest in land.

(s) *Land user* means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

(t) *Local municipality* means a town, county, village or city.

(u) *Maintenance agreement* means a legal document that is filed with the County Register of Deeds and which provides for long-term maintenance of stormwater management practices.

(v) *Non-storm discharge* means a discharge to the storm sewer system created by some process other than the runoff of rain.

(w) *Peak flow* means the maximum rate at which a unit volume of stormwater is discharge.

(x) *Pervious surface* means a surface that infiltrates rainfall during a large portion of the design rainfall event. Well managed lawns, fields and woodlands are examples of pervious surfaces.

(y) *Post-construction stormwater discharge* means any stormwater discharged from a site

following the completion of land disturbing construction activity and final site stabilization.

(z) *Post-development condition* means the extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence rainfall runoff and infiltration.

(aa) *Pre-development condition* means the extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(bb) *Pre-treatment* means the treatment of stormwater prior to its discharge to the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.

(cc) *Residential development* means that which is created to house people, including the residential dwellings as well as all attendant portions of the development including laws, driveways, sidewalks, garages and access streets. This type of development includes single family, multi-family, apartment and trailer parks.

(dd) *Runoff* means the rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface.

(ee) *Site* means the entire area of land disturbing or land development activity.

(ff) *Stabilize* means that vegetation is well established or other surfacing material is in place and the risk of further soil erosion is minimal.

(gg) *Stormwater Management Measure* means a practice, technique or measure to reduce the volume, peak flow rate or pollutants in stormwater including, but not limited to structural stormwater measures.

(hh) *Stormwater management plan* means a document that identifies what actions will be taken to reduce stormwater quantity and pollutant loads from land development activity to levels meeting the purpose and intent of this ordinance.

(ii) *Stormwater management system plan* is a comprehensive plan developed to address stormwater drainage and nonpoint source water pollution control problems under both existing and planned conditions within a logical planning area such as a watershed or subwatershed. Such a system plan is intended to establish objectives, standards and design criteria which can be used to evaluate alternatives and select a recommended plan.

(jj) *Stormwater runoff* means that portion of the precipitation falling during a rainfall event that runs off the surface of the land and into the natural or artificial conveyance or drainage network.



(kk) *Structural stormwater management measure* means a practice that is designed to control stormwater runoff pollutant loads, discharge volumes and peak flow discharge.

(ll) *Surface Waters* means all lakes, bays, rivers, streams springs, ponds wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private within Waukesha County.

(mm) *Wetland functional value* mans the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation and education.

(nn) *Working Day* means a calendar day, except Saturdays, Sundays and State and County recognized legal holidays.

#### **Sec. 14-329. General Administration.**

The Department is designated to administer and enforce the provisions of this ordinance. The Department shall oversee the administration of this ordinance and issue permits and review erosion control plans as provided herein and make recommendations, where appropriate to the Waukesha County Land Conservation Committee and any other agency of the County Board or the Board of Adjustment, relative to matters related to erosion and sediment control and stormwater management.

#### **Sec. 14-330. Design Criteria, Standards and Specifications.**

All construction site erosion control and stormwater management measures required to comply with this ordinance shall meet the design criteria, standards and specifications in the latest edition of the “Wisconsin Construction Site Best Management Practice Handbook” and the “Wisconsin Stormwater Manual” as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources. Design criteria, standards and specifications for construction site erosion control and stormwater management measures not contained in the “Wisconsin Construction Site Best Management Practice Handbook” and the “Wisconsin Stormwater Manual” shall not be permitted unless approved by the Waukesha County Department of Parks and Land Use, Land Conservation Division.

#### **Secs. 14-331-345. Reserved.**

Division 2. Construction Site Erosion Control

#### **Sec. 14-346. Maintenance of Construction Site Erosion Control Measures.**

All best management practices necessary to meet the requirements of this ordinance shall be

maintained consistent with the maintenance standards contained in the “Wisconsin Construction Site Best Management Practice Handbook”. The applicant and any subsequent landowner shall be responsible for maintaining the best management practices during the period of land disturbing activity and land development activity on the site until the site is stabilized in a satisfactory manner to ensure adequate performance and to prevent off site damage.

Implementation of maintenance standards for best management practices that are not included in the “Wisconsin Construction Site Best Management Practice Handbook” Shall not be permitted unless prior approval is granted by the Waukesha County Land Conservation Committee.

**Sec. 14-347. Erosion Control Plan Content and Permit Application Submittal and Approval.**

No person may commence a land disturbing or land development activity subject to this ordinance without receiving prior approval of an erosion control plan for the site and a permit from the Department. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land development activity subject to this ordinance shall submit an application for a permit and an erosion control plan and pay a review fee to the Department. Submission of an application authorizes the Department to enter the site to obtain information required for the review of the erosion control plan.

(a) *Erosion Control Plans For Sites Of One Acre Or Less And All Single and Two-Family Residential Construction Projects* as set forth Comm 21.125 of the Wisconsin Uniform Dwelling Code. The erosion control plan for sites of land disturbing activity or land development activity of one acre or less and all single and two-family residential construction projects shall contain the following:

1. The location of existing and proposed dwellings, other buildings and improvements with respect to the property lines.
2. The direction of slopes before and after land disturbance or land development on the site.
3. A description of all temporary best management practices required by this ordinance and Wisconsin law. Other best management practices shall be implemented during construction as deemed necessary by the Department.
4. A site stabilization plan and time schedule.
5. Any other information deemed necessary by the Department.

(b) *Erosion Control Plans For Sites Of More Than One Acre.* The erosion control plan for sites of land disturbing activity or land development activity of more than one acre shall contain the following:

1. *Existing Site Map.* A map on a scale of at least 1 inch equals 100 feet showing the following existing conditions and immediate adjacent areas:
  - A. Site boundaries and adjacent lands which accurately identify site location;
  - B. Lakes, ponds, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site;

- C. 100 year floodplains and floodways;
  - D. Vegetative cover, types and location;
  - E. Location of natural drainage patterns on the site and immediately adjacent to the site and the size, slope and land cover of the up slope and downslope drainage areas, including peak discharge, velocities, direction and destination of flows;
  - F. Locations and dimensions of utilities, structures, roads, highways and paving;
  - G. Site topography at a minimum contour interval of two feet; and
  - H. Any other information deemed necessary by the Department.
2. *Site Development Plan.* A site development plan including:
- IA. Locations and dimensions of all proposed land disturbing and land development activities;
  - B. Locations and dimensions of all temporary soil or dirt stockpiles;
  - C. Locations and dimensions of all best management practices necessary to meet the requirements of this ordinance;
  - D. Schedule of anticipated starting and completion date of each land disturbing or land development activity including the installation of site best management practices needed to meet the requirements of this ordinance;
  - E. Provisions for maintenance of the best management practices during construction;
  - F. Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance; and
  - G. Location and dimensions of stormwater management measures, including, but not limited to post development peak flows, drainage system dimensions and computations. Provide certification of all computations, designs and final construction by a registered professional engineer.

(c) *Plan Review And Permitting Process.*

1. *Department Requirements.* Within 30 working days of receipt of the application for a permit and erosion control plan and fee for sites of more than one acre of land disturbance or land development or within 10 working days of receipt of the application and erosion control plan and fee for sites of one acre or less of land disturbance or land development, the Department shall review the application and erosion control plan to determine if the requirements of this ordinance are met. The Department may request comments from other departments or agencies. If the requirements of this ordinance are met the Department shall approve the plan and issue a permit to the applicant.

If the requirements of the ordinance are not met the Department shall inform the applicant in writing of what additional information is needed to meet the requirements of the ordinance. Within 30 working days of receipt of needed information for sites of more than one acre or within 10 working days of receipt of needed information for sites of one acre or less, the Department shall again determine if the erosion control plan meets the requirements of this ordinance and inform the applicant in writing of approval and any conditions if

applicable and issue a permit.

If the erosion control plan is not approved the Department shall inform the applicant in writing of the reasons for disapproval. If the Department fails to act within the timeline set within this section, the erosion control plan shall be deemed approved and the permit shall be issued.

(d) *Duration.* Permits and erosion control plan approvals shall be valid for a period of 180 days or the length of the building permit or other construction authorizations or until release of the financial guarantee as set forth in Section 2(B)(3)©), whichever is longer from the date of issuance. The Department may extend the period one or more times for up to an additional 12 months. The Department may require additional best management practices as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(e) *Financial Guarantee.* The Department may require the applicant to furnish the County with a financial guarantee, the form and type of which shall be acceptable to the County prior to release of the permit. The financial guarantee shall be in an amount determined by the Department to be the cost of constructing and installing the erosion and sediment control practices. A financial guarantee shall not be required of departments, boards, municipalities, commissions, public offices and corporations having the authority of Eminent Domain as defined under Chapter 32, Wisconsin Statutes.

The financial guarantee must be sufficient to cover all phases of the plan from the clearing and stockpiling operations to final grading, landscaping and maintenance and shall give the Waukesha County Department of Parks and Land Use, Land Conservation Division the authority to use the funds to complete the project if the applicant defaults or does not properly implement the approved plan. The financial guarantee may not be released until the site has been stabilized with vegetative cover, including vegetative cover required as a result of utility distribution system installation and the practice installation required as part of this ordinance has been certified as built by a licensed professional engineer.

The applicant may submit a joint financial guarantee between the municipality and the county designating the Department as the release agent for the erosion and sediment control provisions.

(f) *Grading and Maintenance Agreements.* A grading and maintenance agreement shall be recorded in the Waukesha County Register of Deeds office prior to issuance of any permits and shall be effective for a sufficient time period to perform the activities required, make the appropriate inspections and approve the final installation. The grading and maintenance agreement shall provide all information deemed appropriate by the Department, including the date of completion and a designation of the individual(s) or municipality responsible for maintenance of installed practices after release of the financial guarantee.

(e) *Erosion Control Plan Conditions.* All permits and approved erosion control plans shall require the applicant to:

1. Notify the Department within 2 working days of commencing any land disturbing or land development activity;

2. Notify the Department of completion of any control measures within one working day after their installation;
3. Obtain permission in writing from the Department prior to modifying the erosion control plan;
4. Install all best management practices as identified in the approved erosion control plan;
5. Maintain all road drainage systems and tracking provisions, stormwater drainage systems, control measures and other facilities identified in the erosion control plan;
6. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land development or disturbing activities;
7. Inspect the best management practices after each rain of 0.5 inches or more and at least once each week and make needed repairs;
8. Allow the Department to enter the site for the purpose of inspecting compliance with the erosion control plan or for performing any work necessary to bring the site into compliance with the erosion control plan; and
9. Keep a copy of the erosion control plan on the site.

**Sec. 14-348. Control of Erosion and Pollutants During Land Disturbance and Development Activities.**

(a) *Applicability.* This section applies to any of the following sites of land development or land disturbing activities.

1. Those sites requiring a subdivision plat or certified survey.
2. Those sites providing for the construction of houses, accessory structures, commercial, industrial or institutional buildings or additions there to on lots of record having an affected surface area of 3,000 sq. feet or more and/or 400 cubic yards of excavation or fill material.
3. Those involving grading, removal of protective ground cover or vegetation, demolition, excavation, land filling or other land disturbing activity affecting a surface area of 3,000 square feet or more.
4. Those involving excavation or filling or a combination of excavation and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material or in excess of 15 cubic yards in aggregate on sites within the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance.
5. Those sites involving the laying, repairing replacing or enlarging of an underground pipe facility for a distance of 300 feet or more.

(b) *Exemptions.* This ordinance does not apply to the following activities:

1. Land development or land disturbing activities conducted or contracted by departments, boards, municipalities, commissions, public offices and corporations having the authority of Eminent Domain as defined under Chapter 32, Wisconsin Statutes.
2. Those State funded or conducted sites involving street, highway, road or bridge

construction activities, meeting requirements contained in the Department of Transportation, Department of Natural Resources Cooperative Agreement Memorandum of Understanding On Erosion Control.

3. Underground pipe or facility placement which is “plowed” into the ground outside areas of channelized runoff.

(c) *Erosion And Other Pollutant Control Requirements.* The following requirements shall be met on all sites covered by this ordinance:

1. *Temporary Best Management Practices.* The following temporary best management practices shall be used to control sediment where erosion of the site, including direct piles, during construction will result in sediment reaching surface waters, rights-of-way, public storm sewers or other off site areas:
  - A. Small drainage areas with overland flow less than one acre, shall require a filter fabric fence or equivalent best management practice placed along the downslope areas and along the sideslope areas as required.
  - B. Drainage areas of one to two acres with concentrated or channelized flow, shall require a filter fabric barrier or equivalent best management practice placed downslope of the disturbed area.
  - C. Drainage areas of more than two acres to five acres with concentrated or channelized flow, shall require a sediment trap or equivalent best management practice placed downslope of the disturbed area.
  - D. Drainage areas of more than five acres with concentrated or channelized flow, shall require a sediment basin or equivalent best management practice placed downslope of the disturbed area.
  - E. Steep slopes, which are slopes of 12 or more percent, shall require use of additional best management practices.
  - F. Environmentally sensitive areas, which are sites within 1,000 feet of a lake or pond or 300 feet of a stream, wetland, channel, ditch, floodplain or other watercourse, may require use of additional best management practices.

(d) *Site Stabilization.* The disturbed area shall be stabilized by seeding, sodding or other permanent means as set forth below:

1. For building sites, the disturbed areas shall be mulched or other best management practices utilized and approved by the Department within 7 days after foundation backfilling;
  - A.. For other sites, the disturbed area shall be stabilized according to the schedule and materials described in the erosion control plan; and,
  - B. When the disturbed area is properly stabilized by established vegetation or other permanent means, the temporary best management practices shall be removed.

(e) *Tracking Prevention and Cleanup.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being traced onto public or private

roadways. Sediment reaching a public or private road shall be removed by street cleaning before the end of each work day. Flushing may not be used unless the sediment will be controlled by a filter fabric barrier, sediment trap, sediment basin or equivalent best management practice.

(f) *Drain Inlet Protection.* Downslope storm drain inlets shall be protected.

(g) *Site Dewatering.* Water pumped from the site shall be treated by an appropriately sized filter fabric barrier, sediment trap sediment basin or equivalent best management practice. Water may not be discharged in a manner that causes erosion or damage of the site, adjacent properties or receiving channels.

(h) *Sediment Cleanup.* All off-site sediment deposits occurring as a result of construction activities shall be cleaned up at the end of the work day.

(i) *Waste and Material Management and Disposal.* All waste and unused building materials shall be properly managed and disposed of to prevent pollutants and debris from being carried by runoff off the site.

(j) *Soil or Dirt Storage Piles.* Soil or dirt storage piles shall be located at least twenty-five (25) feet from any downslope road, lake, stream, wetland, ditch, channel or other watercourse and protected in accordance with subsection G(b2) of this section. Piles located in the street or within twenty-five (25) feet of any downslope road, lake, stream, wetland, ditch, channel, floodplain or other watercourse shall require the use of additional best management practices.

(k) The proposed surface water runoff shall not be diverted so as to concentrate flow directly onto adjacent property or adversely affect adjoining property.

**Secs. 14-349 - 14-354.           Reserved.**

Division 3.       Stormwater Management

**Sec. 14-355.   Intent.**

The Waukesha County Board recognizes that the preferred method of addressing stormwater management problems and needs is through the preparation of comprehensive stormwater management system plans for logical subwatershed areas which are designed to meet the purpose and intent of this ordinance. Accordingly, the standards for onsite stormwater management measures set forth in Sec. 14-358 do not apply in areas where such plans have been prepared. In those areas for which stormwater management system plans have been prepared, all land development activities will include stormwater management measures set forth in those approved stormwater management system plans. It is the general intent of Waukesha County Department of Parks and Land Use in cooperation with

local municipal engineers to achieve its purpose through:

1. managing long-term, post-construction stormwater discharges from land development activities;
2. providing two options for developing stormwater management requirements including:
  - A. application of generic requirements in this ordinance on a site by site basis in areas for which no approved stormwater management system plan exists; and
  - B. implementation of management practices set forth in detailed stormwater management plans in areas which are covered by stormwater management system plan.

**Sec. 14-356. Applicability.**

(a) *Applicability.* The stormwater management provisions apply to land development activities which meet the applicability criteria specified in this section. The stormwater management provisions also apply to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger integrated common plan of development or sale that meets the following applicability criteria, even though the land development activities may take place at different times on different schedules.

1. residential land development with a gross aggregate area of 5 acres or more;
2. residential land development with a gross aggregate area of least 3 acres, but less than 5 acres, if there are at least 1.5 acres of impervious surfaces;
3. land development, other than a residential land development, with a gross aggregate area of 1.5 acres or more or any nonresidential land development which creates impervious area of .5 acres or more.
4. land development activities regardless of size of the development, which in the opinion of the Department are likely to result in stormwater runoff which exceeds the safe capacity of the existing drainage facilities or receiving body of water, which causes undue channel erosion, which increases water pollution by scouring or causes the transportation of particulate matter or which endangers downstream property or public safety.

**Sec. 14-357. Design Criteria, Standard and Specifications.**

(a) All stormwater management measures required to comply with this section of the ordinance shall meet the design criteria, standards and specifications in the latest edition of the “Wisconsin Stormwater Manual” as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources. Design criteria, standards and specifications for stormwater management measures not contained in the “Wisconsin Manual” shall not be permitted unless approved by the Department in cooperation with the local municipal engineer.

(b) *Water Quality Components.* The following methods shall be used in designing components of stormwater structures needed to meet the water quality standards of this ordinance:

1. Runoff volumes and peak flow rates used in designing the water quality components of



stormwater structures shall be calculated using the “Small Storm Hydrology” method set forth in the latest edition of the “Wisconsin Stormwater Manual, Part 2: Technical Design Guidelines for Stormwater BMP’s” as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources.

(c) *Water Quantity Components.* The following methods shall be used in designing components of stormwater structures needed to meet the water quantity standards of this ordinance:

1. Peak flow shaving components of stormwater structures shall be designed in accordance with standard engineering practice.
2. Runoff volumes and peak flow rates used in designing the water quantity components of stormwater structures shall be based on the principles of the document entitled “Urban Hydrology for Small Watersheds” (Technical Release 55: Engineering Division, United States Department of Agriculture, June 1992). Natural Resource Conservation Service or other methods approved by the Department.

#### **Sec. 14-358. Stormwater Management Standards.**

(a) *Stormwater Discharge Quantity.* Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management measures to control the peak flow rates of stormwater discharged from the site. Infiltration of stormwater runoff from driveways, sidewalks, rooftops, and landscaped areas shall be incorporated to the maximum extent technically and financially practical to provide volume control in addition to control of peak flows.

(b) On-site management measures shall be used to meet the following minimum performance standards:

1. The peak flow rates of stormwater runoff from the development shall not exceed those calculated for the series of design storms specified in sub. 2, below, occurring under development conditions specified in sub 3, below. Discharge velocities must be non-erosive to discharge locations, outfall channels, and receiving streams.
2. At a minimum, the 2 year, the 10 year, and 100 year rainfall events shall be used in comparing peak flow discharge rates for pre-development and post-development conditions.
3. When the Natural Resource Conservation Service TR-55 Method is used to calculate peak flow discharge rates and runoff volumes for the pre-development condition, NRCS curve numbers shall not exceed the following for the given soil hydrologic groups. When other methods for computing runoff are used, they shall assume a comparable pre-development condition.

Soil Hydrologic Group	A	B	C	D
NRCS Curve Number for Meadow	30	58	71	78
NRCS Curve Number for Woodland	30	55	70	77
NRCS Curve Number for Agricultural Lands	58	72	81	85
NRCS Curve Number for Paved Roadways w/Open Ditches	83	89	92	93
NRCS Curve Number for Commercial/Business Districts 85% Impervious	89	92	94	95
NRCS Curve Number for Industrial Districts 72% Impervious	81	88	91	93

4. Stormwater discharges to wetlands may be appropriate when the increase or decrease in runoff volumes do not negatively change the wetland functional values. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using a methodology acceptable to the Department. Significant degradation to wetland functional values shall be avoided.

(c) *Stormwater Discharge Quality.* Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management measures to control the quality of stormwater discharged from the site. On-site management measures shall be used to meet the following minimum standard:

1. Stormwater discharges shall be designated to remove, on an average annual basis, a minimum of 80% of the total suspended solids load. To achieve this level of control, stormwater practices shall be designed to accommodate, at a minimum, the runoff volume resulting from 1.5 inches of rainfall over a 4 hour period and control of particulates which are 5 microns or larger in size.
2. Discharge of urban stormwater pollutants to natural wetlands may be appropriate when the discharge does not negatively change the wetland functional value. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Department. Significant degradation to wetland functional values shall be avoided.
3. Stormwater discharges shall be treated as necessary prior to infiltration to prolong the life of the infiltration practice and to prevent discharge of stormwater pollutants at concentrations that will result in exceedances of groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in NR 140 Wisconsin Administrative Code.
4. Stormwater ponds and infiltration devices shall not be located closer to water supply wells than indicated below without first notifying the Department.
  - i. 100 feet from a well servicing a private water system or a transient, non-community

- public water system;
  - ii. 1,200 feet from a well serving a municipal public water system, an other-than municipal public water system, or a non-transient non-community public water system.
  - iii. the boundary of a recharge area to a wellhead identified in a wellhead area protection plan;
5. Land development activities with stormwater runoff reaching Outstanding or Exceptional Resource Waters as identified in Chapter NR 102 Wisconsin Administrative Code may require use of additional on-site management measures.

(d) *Exceptions.* The requirements for onsite stormwater management measures established in this ordinance are not applicable in areas which are determined by the Department to be covered by stormwater management system plan which was developed as an alternative stormwater management planning approach to carry out onsite measures consistent with the purpose and intent of this ordinance. In such cases the recommendations of the stormwater management system plan shall be applied either through the installation of stormwater management provisions recommended to be included on the development site being considered and/or through the payment of a fee as set forth in sub. (e). These minimum requirements may also be waived in whole or in part by the Department in cooperation with the local municipal engineer upon written request of the applicant, provided that at least one of the following conditions applies.

1. Provisions are made to manage stormwater by an off-site facility. This requires that the off-site facility is in place and is designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by application of the standards of this ordinance.
2. The Department in cooperation with the local municipal engineer finds that meeting the minimum on-site management requirements are infeasible due to space or site restrictions.

(e) *Fee in Lieu of On-site Stormwater Management Practices.* Where the Department in cooperation with the local municipal engineer waives all or part of the minimum on-site stormwater management requirements or where the waiver is based on the provision of adequate stormwater facilities provided by the local municipality downstream of the proposed development, the applicant may be required to pay a fee set by the [administering authority]. In setting the fee for land development projects, the local municipality shall consider an equitable distribution of the cost of land, engineering design, construction and maintenance, as set forth in Section 66.0617, Wisconsin Statutes.

(f) *General Considerations for On-site and Off-site Stormwater Management Measures.* The following considerations shall be observed in managing stormwater runoff.

1. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity and natural groundwater recharge areas shall be preserved and used for stormwater infiltration and conveyance, to the extent possible, to meet the requirements of this section.

2. Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

**Secs. 14-359 - 369. Reserved.**

Division 4. Permitting

**Sec. 14-370. Permitting Requirements and Procedures.**

(a) *Permit Required.* No land owner or land operator may undertake a land development activity subject to this ordinance without receiving a permit from the Department prior to commencing the proposed activity.

(b) *Permit Application and Fee.* Unless specifically excluded by this ordinance, any land owner or operator desiring a permit shall submit to the Department a permit application made on a form provided by the Department for that purpose.

1. Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered by the [Department] a stormwater management plan under Section 14-371; a maintenance agreement under Section 14-372; any payment of “fees in lieu” prior to permit issuance, as provided for under Section 14-358 and a non-refundable permit administration fee.
2. The stormwater management plan shall be prepared to meet the requirements of Sec. 14-371 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of Sec. 14-372 of this ordinance and fees shall be those established by the Department as set forth in Sec. 14-372 of this ordinance.

(c) *Review and Approval of Permit Application.* The Department in cooperation with the local municipal engineer shall review any permit application that is submitted with a stormwater management plan, maintenance agreement and the required fee. The following approval procedure shall be used:

1. Within 30 working business days of the receipt of a complete permit application, including all items as required by Sec. 14-370(b), the Department shall inform the applicant in writing whether the application, plan and maintenance agreement are approved or disapproved. The Department in cooperation with the local municipal engineer shall base the decision on requirements set forth in Sec. 14-371 of this ordinance.
2. If the stormwater permit application, plan and maintenance agreement are approved, the Department shall issue the permit.
3. If the stormwater permit application, plan or maintenance agreement are disapproved, the Department shall detail in writing of the reasons for disapproval.
4. If additional information is submitted, the Department shall have 30 working days from the date the additional information is received to inform the applicant whether the plan and maintenance agreement are either approved or disapproved.

5. Failure by the Department to inform the permit applicant of a decision within 30 working days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(j) *Permit Conditions.* All permits issued under this ordinance shall be subject to the following conditions and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Department may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the Department to suspend or revoke this permit may be appealed in accordance with Sec. 14-377 of this ordinance.

1. Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state and local laws and regulations.
2. The permit holder shall design, install and maintain all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan, maintenance agreement and the permit.
3. The permit holder shall notify the Department at least two working days before commencing any work in conjunction with the stormwater management plan and within one working day upon completion of the stormwater management measures. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the Department in cooperation with the local municipal engineer, so that practice installations can be inspected during construction.
4. Completed structural water management measures must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and ordinance. The administering authority shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. The practice installation required as part of this ordinance shall be certified as built by a licensed professional engineer.
5. The permit holder shall notify the Department and local municipal engineer of any significant modifications it intends to make to an approved stormwater management plan. The Department in cooperation with the local municipal engineer may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution.
6. The permit holder shall maintain all stormwater management measures specified in the approved stormwater management plan until the measures either become the responsibility of the local municipality or are transferred to subsequent private owners as specified in the approved maintenance agreement.
7. The permit holder authorizes the Department and local municipality to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to placing associated costs upon the tax roll as a special lien against the property or to charging such costs against the performance bond posted for the project.
8. If so directed by the Department in cooperation with the local municipal engineer the permit

- holder shall repair at the permit holder's own expense all damage to adjoining municipal facilities and public drainage ways caused by stormwater runoff from the permit holder's site, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
9. The permit holder shall permit property access to the Department and local municipal engineer for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
  10. Where a stormwater management plan involves changes in direction, increases in peak rate and/or total volume of runoff off of a site, the Department in cooperation with the local municipal engineer may require the permittee to make appropriate legal arrangements with adjacent property owners concerning the prevention of endangerment to downstream property or public safety.
  11. The permit holder is subject to the enforceable actions detailed in Section 14-376 of this ordinance if the permit holders fails to comply with the terms of this permit.

(k) *Permit Duration.* Permits and stormwater management plan approvals shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, or until release of the financial guarantee as set forth in Section 14-373, whichever is longer from the date of issuance. The Department may extend the period one or more times for up to an additional 12 months.

#### **Sec. 14-371. Stormwater Management Plans.**

(a) *Plan Requirements.* The stormwater management plan required under Sec. 14-370 of this ordinance shall contain the following information:

1. Name, address, and telephone number for the following on their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of stormwater management measures; person(s) responsible for maintenance of stormwater management measures prior to the transfer, if any, of maintenance responsibility to another party.
2. A proper description of the property proposed to be developed referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
3. Pre-development site conditions, including:
  - A. A site map, at a scale of not less than 1 inch equals 100 feet. The site map shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two foot contour interval; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in

determinations of peak flow discharge rates and discharge volumes from the site; lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells located within 1,200 feet of stormwater detention ponds, infiltration basins or infiltration trenches; delineation of wellhead protection areas delineated pursuant to NR 811.16 Wis. Admin. Code.

- B. Computations of the peak flow discharge rates and discharge volumes, from each discharge point in the development. At a minimum, computations must be made for the following storms: 2-year, 10-year, 100-year. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross-referenced to the required map(s).
4. Post-development site conditions, including:
- A. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protections plans and ordinances.
  - B. A site map at a scale of not less than 1 inch equals 100 feet showing: revised pervious land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; revised topographic contours of the site at a scale not to exceed two feet; revised drainage network, including enough of the contiguous properties to show runoff patterns onto, through and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain or natural drainage way; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes; any changes to lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.
  - C. Computations of the peak flow discharge rates and discharge volumes, from each discharge point in the development, including analysis of the safe capacity of downstream drainage conveyance systems. At a minimum, computations must be made for the following storms: 2-year, 10-year, 100-year. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  - D. Investigations of soils and groundwater required for the placement and design of stormwater management measures.
  - E. Results of impact assessments on wetland functional values.
  - F. Design computations and all applicable assumptions for stormwater conveyance (open channel, closed pipe) and stormwater treatment measures (sedimentation type, filtration-type, infiltration-type) as needed to show that practices are appropriately sized

and capable of meeting the discharge performance standards of this ordinance.

G. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment measures.

5. A stormwater measure installation schedule.
6. A maintenance plan developed for the life of each stormwater management measure including the required maintenance activities and maintenance activity schedule.

(b) *Exceptions.* The Department in cooperation with the local municipal engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Sec. 14-358(c) of this ordinance.

(c) *Waivers.* The Department in cooperation with the local municipal engineer may waive some of the requirements of Sec.14-371 to accommodate smaller scale projects.

#### **Sec. 14-372. Maintenance.**

(a) *Maintenance Agreement Required.* The maintenance agreement required for stormwater management measures under Sec. 14-370(b)(1) of this ordinance shall be an agreement between the local municipality and the permittee. The agreement or recordable document shall be recorded with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the stormwater management measures.

- (b) *Agreement Provisions.* The maintenance agreement shall contain the following provisions:
1. Identification of the landowner(s), organization or municipality responsible for maintenance of the stormwater management measures.
  2. The landowner(s), organization or municipality shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under Section 3 (F) of this ordinance.
  3. The local municipality is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
  4. A schedule for regular maintenance of each aspect of the property's stormwater management system.
  5. That if the local municipality notifies the party designated under the maintenance agreement of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the local municipality.
  6. The local municipality is authorized to perform the corrected actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which



the work is completed.

7. Identification of the structural stormwater measures design components and designation of the drainage area served by the measures.

Division 5. Financial Provisions

**Secs. 14-373. Reserved.**

**Sec. 14-374. Fee Schedule.**

The fees referred to in other sections of this ordinance shall be established administratively through the Waukesha County budget process. A schedule of the fees shall be available for review in the office of the Waukesha County Department of Parks and Land Use and the County Clerk.

Division 6. Enforcement and Appeals

**Sec. 14-375. Inspection.**

At any reasonable time and for any proper purpose, the Department is authorized to enter upon any land and make inspections to determine conformance with the terms of this ordinance and any permits or plan approvals pursuant to the provisions of section 66.0119, Wisconsin Statutes.

**Sec. 14-376. Enforcement.**

- (a) The Department may post a stop-work order if:

1. Any land disturbing or land development activity regulated under this ordinance is occurring without a permit and an approved erosion control plan or
2. The conditions of the permit and approved erosion control plan are not being complied with.

(b) After posting a stop-work order, the Department may issue a notice of intent to the applicant or landowner or land user of its intent to perform work necessary to comply with this ordinance, permit or erosion control plan. If conditions are likely to result in sediment from the site damaging adjacent properties or reaching surface waters, the Department may enter the land and take emergency actions necessary to prevent sediment or other pollutants from damaging adjacent properties or reaching surface waters, public rights-of-ways and storm sewers. The costs incurred by the Department plus interest and legal costs shall be billed to the owner of title of the property.

(c) Any individual who violates this ordinance, the conditions of a permit granted pursuant to this ordinance or permits erosion, sediment deposits, tracking or deposition of soil on adjacent land, public right-of-ways or surface waters shall be deemed to be in violation of this ordinance and subject to the penalties provided herein.

1. Penalties: Any person, firm, company or corporation who violates, disobeys, omits, neglects, refuses to comply with or who resists the enforcement of any of the provisions of this ordinance, shall be subject to a fine of less than fifty dollars (\$50.00) and not to exceed the sum five hundred dollars (\$500.00) for each offense, together with the costs of the action and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County, for a period of not to exceed six (6) Months or until such fine and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.
2. Enforcement by injunction: Compliance with the provisions of this ordinance may also be enforced by injunction at the suit of the county or one (1) or more owners of real estate situated within an area affected by the regulations of this ordinance. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunction proceedings.

#### **Sec. 14-377. Appeals.**

(a) *Establishment.* The Waukesha County Board of Adjustment created pursuant to Section 59.99 of the Wisconsin Statutes is hereby authorized to serve as the Board of Adjustment for considering appeals to this ordinance. The organization in terms of members and terms of office for that Board are set forth in the Waukesha County Zoning Code.

(b) *Rules.* The rules established for the Waukesha County Board of Adjustment as provided in the Waukesha County Zoning Code shall apply. In addition to cooperation with the Waukesha County Zoning Agency, the Board shall cooperate with the Waukesha County Land Conservation Committee and department staff and keep them informed as to any matters brought before it. It shall call upon that Committee or the department for such information as may be pertinent to the matters under consideration.

(c) *Powers.* The Board of Adjustment shall have the powers defined by Wisconsin Statutes and as follows:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Department in the enforcement of provisions of this ordinance or as provided in Section 59.693 of the Wisconsin Statutes.
2. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the purpose of this ordinance shall be observed, public safety and welfare secured and substantial justice done.

(d) *How Filed.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by a decision of the Department or the Land Conservation Committee or other administrative officer. Such appeal shall

be taken within twenty (20) days from the date of the decision of the Waukesha County Land Conservation Committee or the Department or other offices by filing with the Board of Adjustment, a notice of appeal specifying the grounds thereof, together with the proper fee as established by this ordinance. A copy of the appeal shall also be forwarded to the agency or department whose decision is being appealed. The officer whose decision is being appealed shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(e) *Stay.* An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whose decision the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due case shown.

(f) *Hearing.* Each appeal shall be heard within a reasonable time and not to exceed ninety (90) days from the time the appeal was filed with the Board. Notice of hearing shall be given by publishing in a newspaper of general circulation in the vicinity of the appeal at least once each week for two (2) consecutive weeks and not less than seven (7) days from the date of hearing. In addition, written notice shall be given to the Waukesha County Land Conservation Committee, the department, the county zoning administrator any other administrative officer appealed from and by certified mail to the petitioner, the clerk of the town wherein the affected lands are located, the owners or each parcel of land within one hundred (100) feet of the land in question and any other specifically interested parties. At the hearing any party may appear in person or by an agent or attorney.

(g) *Decision.* The decision on any appeal shall be made within fifteen (15) days after completion of the hearing thereon.

(h) *Additional Requirement.* In making its determination, the Board of Adjustment shall consider whether the proposed variance from the terms of this ordinance would be hazardous, harmful, noxious or offensive or a nuisance to the surrounding neighborhood or surface waters by reason of pollution or other physical, social or economic effects and may impose such requirements and conditions with respect to construction, location, maintenance and operation or best management practices in addition to any which may be stipulated in this ordinance as it may deem necessary and appropriate for the protection of adjacent properties and the public interest and welfare.

(i) *Performance Standards.* In order to reach a fair and objective decision, the board may utilize and give recognition to appropriate performance standards and methodologies which are available in model codes or ordinances or which may have been developed by planning, manufacturing, health, architectural, engineering, soil and agricultural agencies or other appropriate organizations.

(j) *Enforcement of Decision.* In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer or department official from whom the appeal is taken and may issue or direct the issue of a permit provided that no such action shall have the effect of permitting best management practices in contradiction to the purpose of this ordinance or the Wisconsin Statutes or cause pollution or of granting variances to any other state, county or local ordinance.

(k) *Required Vote.* The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matters upon which it is required to pass under this ordinance, or to effect any variation therefrom. The grounds of every such determination shall be stated.

(l) *Further Appeal.* Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment or any taxpayer or any officer, department, board or bureau of the municipality, may appeal from a decision of the Board of Adjustment within thirty (30) days after the filing of the decision in the office of the Board of Adjustment in the manner provided in Section 59.694, Wisconsin Statutes.

**Secs. 14-388 - 14-399. Reserved.**

## ARTICLE IX. ANIMAL CONTROL

### **Sec. 14-400. Rabies control program adopted.**

Section 95.21, "Rabies Control Program," Wisconsin Statutes, as from time to time amended, is hereby adopted by reference and made part of this Code.  
(Ord. No. 148-72, 10-26-93)

### **Sec. 14-401. Current license required for dogs under quarantine.**

Any dog quarantined under the authority of Section 95.21, Wisconsin Statutes, which does not have a current license from an appropriate local municipality, may subject the owner of the dog to a fifty dollar (\$50.00) late payment fee, payable to the local treasury of the appropriate town, village or city, if the owner does not license the dog by the end of the period of quarantine.  
(Ord. No. 148-72, 10-26-93)

**Secs. 14-402 - 14-409. Reserved.**

## **ARTICLE X. HEALTH-RELATED REGULATIONS AND LICENSES**

### **Sec. 14-410. Wisconsin Administrative Code provisions adopted by reference.**

The following Wisconsin Administrative Code Chapters, as from time to time amended, are hereby adopted by reference and made part of this article as if fully set forth herein:

HFS 196, Restaurants;  
HFS 197, Bed and Breakfast;  
HFS 195, Hotels and Tourist Rooming Houses;  
HFS 178, Campgrounds and Camping Resorts;  
HFS 172, Safety, Maintenance and Operation of Public Swimming Pools;  
HFS 175, Recreational and Educational Camps;  
COMM 95, Mobile Home Parks.  
(Ord. No. 147-15, § 1(A), 6-9-92)

### **Sec. 14-411. Definitions.**

For the purposes of this article:

*Category 1 restaurant* shall mean a restaurant having individually wrapped, hermetically-sealed single food servings with preparation limited to heating and serving with single service utensils. Examples: Taverns, motels, and amusement arcades.

*Category 2 restaurant* shall mean a restaurant which may serve potentially hazardous foods where there is a rapid turnover between food preparation and food service. Holding of hot and cold potentially hazardous food is restricted to single meal service. Examples: Fast food restaurants, submarine sandwich restaurants, pizza parlors, taverns with grills, and coffee shops.

*Category 3 restaurant* shall mean a restaurant serving potentially hazardous foods that require extensive food preparation, which may include manual handling, cooling, reheating, holding of hot and cold potentially hazardous food, transportation of hot or cold ready-to-eat meals, and preparation of food several hours or days before service. Examples: Full menu restaurants, caterers, delicatessens, and institutional food service.

*Department* shall mean the department of health and human services or any alternate county department designated by the department of health and human services to endorse health related ordinances.

*Partial inspection* shall mean a followup inspection of the facility for specific critical violations noted in a routine inspection, reinspection or complaint followup inspection.

*Preinspection* means the inspection performed by the department prior to licensing when there is a change of owner and/or operator of an entity regulated by this article and prior to licensing and opening of a new entity regulated by this article.

*Reinspection* shall mean a complete inspection of the facility due to non-complying conditions noted in a routine inspection or complaint followup inspection where the facility fails to meet established standards.

*Temporary restaurant inspection* shall mean an inspection of a temporary restaurant where a current and valid permit has been issued by the state or another agent of the state.  
(Ord. No. 148-91, § 1, 11-29-93)

#### **Sec. 14-412. Licensing.**

(a) Before being opened for public use, each entity in the county regulated by this article shall be licensed in accordance with this article. Application for licensure shall be made on forms provided by the department.

(b) Upon application by the owner or agent and submission of the preinspection fee, the license fee, the tax key number of the property, and documentation of zoning and/or conditional use approval from the Waukesha County Parks and Land Use Department for premises located in areas of Waukesha County where the park and planning department has authority to impose and enforce zoning regulations, a license may be issued provided the preinspection of the premises indicates reasonable compliance with the requirements of the applicable Administrative Code chapters adopted by this article.

(c) Licenses granted pursuant to this article shall expire on June 30 of each year.

(d) A license granted pursuant to this article may be suspended or revoked due to violations of this article.

(e) Copies of plans shall be submitted to the department prior to the construction, remodeling or renovation of any entity regulated by this article.  
(Ord. No. 147-15, § 1(C), 6-9-92; Ord. No. 148-41, § 1, 8-10-93)

#### **Sec. 14-413. Fees.**

(a) Fees shall be determined by the department within parameters determined by the county board in the budget for the department. Fee schedules shall be filed in the department and in the office of the county clerk.

(b) Fees will be imposed for the following:

1. Preinspections.
2. Annual licenses.
3. Penalties.
4. Duplicate licenses.
5. Reinspections.
6. Partial inspections.
7. Temporary restaurant inspections.

(c) Preinspection fees shall be nonreturnable, nontransferable and nonprorated.

(d) Annual license fees shall be nonreturnable, nontransferable and nonprorated.

(e) A penalty fee, which may include costs to the county to cover collection, shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(f) A penalty fee shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(g) An additional penalty fee shall be required whenever operations are continued after written notification of license suspension or revocation.

(h) Licenses are nontransferable either from one (1) entity to another or from one (1) person to another. It is the responsibility of the licensee to notify the department in writing when a change in owner occurs and also supply the department with the names and post office addresses of any new owners.

(i) Category 1, Category 2, and Category 3 restaurants shall have different license and preclicensing fees.

(j) Licensing contingent on payment of fees. The department may not issue or renew an establishment license unless the license applicant pays all fees which are due and payable under this section.

(Ord. No. 147-15, §1(D), 6-9-92; Ord. No. 148-91, § 2, 11-29-93; Ord. No. 157-2, § 1)

#### **Sec. 14-414. Enforcement.**

(a) Section 254.85, Wisconsin Statutes, is adopted by reference.

(b) It shall be the duty of the director of the department, or the director's designee, to enforce the provisions of this article relating to the regulation of restaurants, bed and breakfast establishments,

hotels and motels, campgrounds, mobile home parks, recreational and educational camps, and public swimming pools. For the purpose of inspection and enforcement, the department shall have access to establishments during reasonable hours. In the event any operator of any establishment refuses entry for inspection purposes, the department may obtain a special inspection warrant under section 66.0119 of the Wisconsin Statutes. The director or the director's designee shall enforce violations of this article through the office of the corporation counsel.  
(Ord. No. 147-15, §1(E), 6-9-92)

**Secs. 14-415 - 14-429. Reserved.**

## **ARTICLE XI. MOBILE HOME PARKS AND RETAIL FOOD ESTABLISHMENTS**

### **Sec. 14-430. County authority.**

Wisconsin Administrative Code ATCP 75, "Retail Food Establishments," and Wisconsin Administrative Code Comm 95, "Mobile Home Parks," as from time to time amended, are hereby adopted by reference and made part of this article as though fully set forth herein.  
(Ord. No. 147-43, § 1(A), 7-28-92; Ord. No. 148-91, § 3, 11-29-93)

### **Sec. 14-431. Definitions.**

For purposes of this article:

*Department* shall mean the Department of Parks and Land Use.

*Partial inspection* shall mean a followup inspection of the facility for special critical violations noted in a routine inspection, reinspection or complaint followup inspection.

*Preinspection* means the inspection performed by the department prior to licensing when there is:

1. The opening of a new food establishment or new mobile home park;
2. A change of operator of a licensed retail food establishment or mobile home park; or,
3. The addition of a new category of food processing operations to a retail food license.

*Reinspection* shall mean a complete inspection of the facility due to non-complying conditions noted in a routine inspection or complaint followup inspection where the facility fails to meet established standards.

*Temporary retail food establishment inspection* shall mean an inspection of a temporary retail food establishment where a current and valid permit has been issued by the state or another agent of the state.



(Ord. No. 147-43, § 1(B), 7-28-92; Ord. No. 148-91, § 4, 11-29-93)

**Sec. 14-432. Licensing.**

(a) Before being opened for public use, each retail food establishment in Waukesha County shall be licensed in accordance with requirements of Wisconsin Administrative Code, ATCP 75, "Retail Food Establishments." Application for licensure shall be made on forms provided by the department.

(b) Before being opened for public use, each mobile home park in the county shall be licensed in accordance with requirements of Wisconsin Administrative Code, Comm 95, "Mobile Home Parks" until such time that the department of administration promulgates rules for mobile home parks at which time mobile home parks shall be licensed in accordance with requirements of department of administration rules and regulations. Application for licensure shall be made on forms provided by the department.

(c) Upon application by the owner and/or operator and submission of the preinspection fee and the license fee, the tax key number of the property and documentation of zoning and/or conditional use approval from the Waukesha County Park and Planning Department for premises located in areas of Waukesha County where the park and planning department has authority to impose and enforce zoning regulations, a retail food establishment license may be issued provided the preinspection of the premise indicates reasonable compliance with the requirements of ATCP 75, Wisconsin Administrative Code.

(d) Upon application by the owner and/or operator and submission of the preinspection fee and the license fee, a mobile home park license may be issued provided the preinspection of the premise indicates reasonable compliance with the requirements of Comm 95, Wisconsin Administrative Code.

(e) Licenses granted under this article shall expire on June 30 each year.

(f) Licenses granted under this article may be suspended or revoked due to violations of this article.

(g) Copies of plans shall be submitted to the department prior to the construction, remodeling, or renovation of a retail food establishment or mobile home park.

(Ord. No. 147-43, § 1(C), 7-28-92; Ord. No. 148-41, § 2, 8-10-93)

**Sec. 14-433. Inspections.**

The department may at reasonable hours enter and inspect any unlicensed retail establishment where foods are held for sale or any licensed or unlicensed mobile home park.

(Ord. No. 147-43, § 1(D), 7-28-92)

**Sec. 14-434. Fees.**

(a) Fees shall be determined by the department within parameters determined by the county board in the budget for the department. Fee schedules shall be filed in the department and in the office of the county clerk.

(b) Fees will be imposed for the following:

1. Preinspections.
2. Annual licenses.
3. Penalties.
4. Duplicate licenses.
5. Reinspections.
6. Partial inspections.
7. Temporary retail food establishment inspections.

(c) Preinspection fees shall be nonreturnable, nontransferable and nonprorated.

(d) Annual license fees shall be nonreturnable, nontransferable and nonprorated.

(e) A penalty fee, which may include costs to the county to cover collection, shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(f) A penalty fee shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(g) An additional penalty fee shall be required whenever operations are continued after written notification of license suspension or revocation.

(h) Licenses are nontransferable either from one (1) entity to another or from one (1) person to another. It is the responsibility of the licensee to notify the department in writing when a change in owner occurs and also supply the department with the names and post office addresses of any new owners.

(i) *Licensing contingent on payment of fees.* The department may not issue or renew an establishment license unless the license applicant pays all fees which are due and payable under this section.

(Ord. No. 147-43, §1(E), 7-28-92; Ord. No. 148-91, § 6, 11-29-93; Ord. No. 157-2, §1, 5/17/02)

**Sec. 14-435. Enforcement.**

(a) Section 254.85, Wisconsin Statutes, is adopted by reference.

(b) It shall be the duty of the director of the department, or the director's designee, to enforce the provisions of this section relating to the regulation of retail food establishments and mobile home parks. For the purpose of inspection and enforcement, the department shall have access to establishments during reasonable hours. In the event any operator of any establishment refuses entry for inspection purposes, the department may obtain a special inspection warrant under section 66.0119 of the Wisconsin Statutes. The director or the director's designee shall enforce violations of this article through the office of the county corporation counsel.  
(Ord. No. 147-43, § 1(F), 7-28-92)